

Víctor Saucedo

The *Poulterers' Case* (1611)

A Landmark
in the History of Criminal Conspiracy

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Introduction

A Landmark-Case Narrative

Once growing in the wilderness of common law offences, conspiracy has long been tamed by Anglo-American criminal law scholars and couched into statutory form.¹ There is little else to say about it beyond the conventions of criminal law analysis. Of course, there is room for complaint and redemption,² as well as different expository strategies.³ But the main ideas about the nature of this offence are repeated from textbook to textbook. And in these tropes of discourse, criminal law scholars rarely fail to give an account of how the modern variety of conspiracy grew in the wild before domestication. It could be as brief as a few paragraphs⁴ or as long as an entire heading⁵ or a

1 The offence has been generally defined and partially codified in England and Wales by the Criminal Law Act 1977, pt I s 1. This enactment also preserves the common law varieties of the offence in statutory form as the special conspiracy to defraud s 5(2)(1) and to engage in conduct which tends to corrupt public morals or outrages public decency s 5 (3)(1)(a). In the U. S., a general definition was proposed by the American Law Institute in the Model Penal Code ss. 5.02 and 2.06, and since adopted by penal legislation in several states such as New Jersey, NJ Rev Stat s 2c:5-2; Pennsylvania, 18 Pa. Code s 903; or Delaware, 11 DE Code s 511. The common law variety may still grow at the state level but not at the federal one. At the federal level, 18 USC 371 creates both a general conspiracy to commit federal crimes and a federal special conspiracy to defraud the United States. Additionally, a myriad of special conspiracies peppers the provisions of other titles and sections of the U. S. Code. To name a few: the conspiracy in restraint of trade, 15 USC 1; conspiracy against rights, 18 USC 241; conspiracy to defraud the Government with respect to claims, 18 USC 286; conspiracy to impede or injure officer, 18 USC 372; conspiracy to kill, kidnap, maim, or injure persons or damage property in a foreign country, 18 USC 956; conspiracy to murder, 18 USC 1117; conspiracy to destroy vessels 18 USC 2271; seditious conspiracy, 18 USC 2384; conspiracy to violate Controlled Substances Act 21 USC 846.

2 Phillip E Johnson, 'The Unnecessary Crime of Conspiracy' (1973) 61 California Law Review 1137; Neal Kumar Katyal, 'Conspiracy Theory' (2003) 112 Yale Law Journal 1307.

3 William Wilson, *Criminal Law: Doctrine and Theory* (2nd edn, Pearson Education UK 2003) 548–565, for Co Instance, describes the offence in a more analytical fashion whereas; David Ormerod and Karl Laird, *Smith, Hogan, & Ormerod's Criminal Law* (15th edn, Oxford University Press 2018) 435–474, hangs his analysis to the letter of the Criminal Law Act 1977.

4 George P Fletcher, *Rethinking Criminal Law* (Little Brown 1978) 221–223.

5 Steven R Morrison, 'The System of Modern Criminal Conspiracy' (2014) 63 Catholic University Law Review 371, 375–379.

chapter,⁶ but the arch of this narrative ineluctably begins in the Middle Ages and has its climax in a landmark case, the *Poulterers' Case* (1611). Then, it winds down for a few centuries, with the courts whittling down the principle the case stood for. Before explaining the role that this narrative centered on the *Poulterers' Case* played in the process of domestication of the law of conspiracy, I will begin by offering a detailed overview of the manner in which criminal law scholars describe it.

Most scholars believe that the crime of conspiracy was originally created by statute under the reign of Edward I,⁷ and that no common law offence predated it.⁸ However, there is no agreement as to what the nature of the wrong was. Sayre contends that it was not made an offence until the reign of Edward III.⁹ Harno explains that the original statutes “do not treat conspiracy as a substantive crime but enact a writ... to aid litigants to determine whether their cause of action was redressable.”¹⁰ In turn, Pollack, Williams, and LaFave describe it originally as a crime and do not mention any writ;¹¹ however, Pollack also reproduces Harno’s opinion that medieval conspiracy “did not precisely confine the crime nor treat it as a substantive crime, but merely provided for a writ.”¹² These conflicting views are synthesized by some authors through somewhat oxymoronic expressions such as “civil offence,”¹³ or by conflating conspiracy in general with references to the writ of conspiracy.¹⁴

6 David Harrison, *Conspiracy as a Crime and as a Tort in English Law* (Sweet & Maxwell, Limited 1924) 3–62.

7 *Ordinacio de Conspiratoribus* 1305 (33 Edw 1).

8 Francis B Sayre, ‘Criminal Conspiracy’ (1922) 35 *Harvard Law Review* 393, 396–397; Benjamin F Pollack, ‘Common Law Conspiracy’ (1947) 35 *Georgetown Law Journal* 328, 340–342; ‘Developments in the Law: Criminal Conspiracy’ (1959) 72 *Harvard Law Review* 920, 922; Harrison, *Conspiracy As a Crime And As a Tort in English Law* (n 6) 6–8; Albert J Harno, ‘Intent in Criminal Conspiracy’ (1941) 89 *University of Pennsylvania Law Review and American Law Register* 624, 624; Glanville Llewelyn Williams, *Criminal Law: The General Part* (2nd edn, Stevens & Sons Limited 1961) 663 n 1, 696; Wayne R LaFave and Austin W Scott, Jr., *Handbook on Criminal Law* (West Publishing Co 1972) 453; Morrison (n 5) 375.

9 Sayre (n 8) 396; Harrison, *Conspiracy as a Crime and as a Tort in English Law* (n 6) 7–8.

10 Harno (n 8) 625.

11 Pollack (n 8) 340; Williams (n 8) 663, nn.1, 696; LaFave and Scott, Jr. (n 8) 453.

12 Pollack (n 8) 341.

13 Fletcher (n 4) 222.

14 Morrison (n 5) 6.

The wrong is often times defined in specific and concrete terms. In naming the medieval wrong, most authors use terms such as *combination*, *confederacy*, or *alliance* in lieu of *conspiracy*, emphasizing the idea of group (action) as part of its substance.¹⁵ However, there are different ways to express what the objective of the combination was. Sayre, as many other commentators, follows the *Ordinacio de Conspiratoribus* 1305 (33 Edw 1), but what he calls “a precise definition of conspiracy”¹⁶ is rather a collection of specific wrongs including maintenance, instigating and issuing false indictments, bringing and instigating false appeals, taking and giving liveries, and maintenance in local courts by seignorial officers.¹⁷ At times, though, the wrong is expressed in more general and abstract terms as *abuse of procedure*.¹⁸

The substance of this wrong included a procedural requirement that became one of the distinctive elements of medieval conspiracy and played a central role in the rise of modern conspiracy. The writ of conspiracy could not be substantiated unless the plaintiff had been acquitted of the false accu-

15 Harrison (n 6) 8–9; Harno (n 8) 625; Pollack (n 8) 340; Pollack starts his historical account of conspiracy by telling us that “conspiracies were made criminal because of the danger from the increased power which results from a combination of many individuals. It is harder to guard against the evil designs of a group of persons than against those of an individual,” 339; Williams (n 8) 696; LaFave and Scott., Jr. (n 8) 453; Peter Gillies, *The Law of Criminal Conspiracy* (2nd edn, The Federation Press 1990) 1; Morrison (n 5) 8.

16 Sayre (n 8) 395.

17 *ibid* 396; cf. Harrison (n 6) 8–9; The haphazard nature of this collection of wrongs expressed in the *Ordinacio de Conspiratoribus* 1305 (33 Edw 1) shapes how other authors describe the objective of a conspiracy: Harno (n 8) 625 “false and malicious promotions of indictments and pleas, for embracery and for maintenance” although the writ laid “only for a conspiracy to indict or appeal for felony;”; “the false and malicious promotion of indictments, pleas and the like,” Pollack (n 8) 340; “the false and malicious procurement of indictments,” ‘Developments in the Law: Criminal Conspiracy’ (n 8) 923; “falsely to prosecute for felony,” Williams (n 8) 663; “to procure false indictments or to bring false appeals or to maintain vexatious suits,” LaFave and Scott., Jr. (n 8) 453; “falsely to accuse and convict an innocent person,” Fletcher (n 4) 222; notice that this formulation is inconsistent with the acquittal requirement below mentioned.

18 Thus, Sayre speaks of “abuses of ancient criminal procedure,” Sayre (n 8) 394; Pollack, of conspiracy as remedying “a specific abuse—namely, offences against the administration of justice,” Pollack (n 8) 340; LaFave and Scott say that it was “intended to correct the abuses of ancient criminal procedure,” LaFave and Scott., Jr. (n 8) 453; Gillies generally talks about “combinations in abuse of legal procedure,” Gillies (n 15) 1; Morrison says “it applied only to abuses of legal procedure,” Morrison (n 5) 453.

sation. Contemporary scholarship, however, anachronistically frames this as the requirement for the wrong to have been completed, foreshadowing contemporary theories about conspiracy.¹⁹

Most scholars believe that modern conspiracy originated out of medieval conspiracy, but that it was conceptually unrelated to it and therefore did not derive from it. As such, the next step in their narrative is to describe the process by which modern conspiracy developed out of the medieval wrong. Most authors concur in considering that the substance of the wrong remained unchanged for the next three centuries and that modern conspiracy was born as a common law offence in the Star Chamber between the sixteenth and seventeenth centuries. The leading case in this narrative is the *Poulterers' Case* (1611).²⁰ The case revolved around a narrow issue regarding the abovementioned procedural element: could plaintiffs have remedy by the writ of conspiracy when the plaintiff had not been acquitted but merely discharged on an *ignoramus* by the grand jury? It is common opinion among legal scholars that, in finding a solution, the court came up with a new principle that expanded the scope of the law. The crime was completed with the agreement to

19 “the crime of conspiracy for procuring false indictments was not complete until the person falsely accused had been actually indicted and acquitted,” Sayre (n 8) 397; “it was always held that the conspiracy was incomplete until the party had been actually indicted and acquitted,” Harrison, *Conspiracy as a Crime and as a Tort in English Law* (n 6) 13; “the conspiracy was incomplete until the party had been actually indicted and acquitted,” Harno (n 8) 625; “conspiracy was allowed only after the injured party was completely acquitted,” Pollack (n 8) 340; “the crime was incomplete until the party had been indicted and acquitted,” Williams (n 8) 663, see also 696; “the crime of conspiracy was not complete unless the person falsely accused had been actually indicted and acquitted,” LaFave and Scott., Jr. (n 8) 453; Gillies is even more anachronistic since for him these were “combinations in abuse of legal procedure which had culminated in prescribed overt acts,” Gillies (n 15) 1; Likewise for Morris “the law was ‘consequentialist’... the aim of conspiracy had to be realized,” Morrison (n 5) 375.

20 *The Poulterers' Case* (1611) 9 Co Rep 55b, 73 ER 813; Harrison, *Conspiracy as a Crime and as a Tort in English Law* (n 6) 15 believes that “this case is of supreme importance in the history of criminal conspiracy”; Pollack (n 8) 340–341, 342–343; he calls it “a landmark in the history of criminal conspiracy, and the development of the law of conspiracy stems entirely from... [this] decision” a p. 342; . See also Sayre (n 8) 398; Harno (n 8) 625; ‘Developments in the Law: Criminal Conspiracy’ (n 8) 923; Williams (n 8) 663; LaFave and Scott., Jr. (n 8) 453; Katyal (n 2) 1370; Morrison (n 5) 376–377; Gillies (n 15) 1; Joshua Dressler, *Understanding Criminal Law* (Eighth edition, Carolina Academic Press, LLC 2018) 394.

falsely accuse someone, and therefore it did not matter whether the plaintiff had been acquitted or not.²¹ Thus, with this new principle, non-executed conspiracies were brought within the law.²²

For criminal law scholars, the next step in the development of the concept of conspiracy emerges naturally. As one author puts it, "it was an easy step to the very general doctrine that since the gist of the crime is the conspiracy... the mere conspiracy alone was held to constitute the gist of the offence and to be therefore indictable."²³ In other words, the mere agreement to commit a crime was considered a crime.²⁴ This way, the idea of conspiracy as an inchoate crime cognate to attempt was born.²⁵

Nevertheless, the emergence of the modern conception of conspiracy as an inchoate offence was not its last stage of development. Most scholars believe that conspiracy was illegitimately expanded beyond this inchoate logic in the seventeenth century. At that time, courts assumed a creative role in criminal

21 Harrison, *Conspiracy as a Crime and as a Tort in English Law* (n 6) 13.

22 The principle was summarized in the idea that the agreement is the gist of the offence: "The confederating together constituted the gist of the offence rather than the false indictment and subsequent acquittal," Sayre (n 8) 398; "the mere act of combination to commit the crime of conspiracy was punishable," Harrison, *Conspiracy as a Crime and as a Tort in English Law* (n 6) 14; "a mere agreement to commit a crime became a substantive offence," Harno (n 8) 923; "the agreement itself was punishable even if its purpose remained unexecuted," 'Developments in the Law: Criminal Conspiracy' (n 8) 923; "the gist of conspiracy is the agreement, and thus the agreement is punishable even if its purpose was not achieved," LaFave and Scott., Jr. (n 8) 454; "a mere agreement for an abuse of legal procedure was criminal independently of statute, ie, whether or not it was enacted," Gillies (n 15) 1.

23 Sayre (n 8) 399.

24 Harrison, *Conspiracy as a Crime and as a Tort in English Law* (n 6) 15–16.

25 Cf. Harno (n 8) 626, who though he concedes "that the two have many features in common and are based very largely on the same general underlying principles," points out that "the two are not to-day the same; every criminal conspiracy is not an attempt." ; Cf. Sayre (n 8) 399, who though he concedes "that the two have many features in common and are based very largely on the same general underlying principles," points out that "the two are not to-day the same; every criminal conspiracy is not an attempt." ; Pollack does not mention any intermediate step and suggests that the "Poulterers' Case made the agreement to commit a crime a substantive crime in itself" and "after the decision in this case the doctrine that a combination to commit a crime was in itself criminal was extended to other cases, and the agreement or combination itself received the name of conspiracy," Pollack (n 8) 342–343; See also 'Developments in the Law: Criminal Conspiracy' (n 8) 923; LaFave and Scott., Jr. (n 8) 454; Morrison (n 5) 8.

law, and the law of conspiracy was overextended in order to fill perceived gaps in criminal law.²⁶ Thus, conspiracy ended up encompassing conducts considered to be against public policy or morality.²⁷ This was no doubt an illegitimate usurpation of legislative power by the judiciary based on an erroneous construction of the law of conspiracy.²⁸ This construction of the principle originally expressed in the *Poulterers' Case* was taken up by legal writers such as Hawkins, and with time would take the form of Lord Denman's famous antithesis that a conspiracy is an unlawful agreement to do something lawful, or a lawful agreement to do something unlawful.²⁹ This formulation is the basis of the common law conspiracy in those jurisdictions that keep it. It is also at the origin of the belief that there is a medieval common law.³⁰

We can also hear echoes of this narrative in the courts. While it appeared as a mere appendage in the works of criminal law scholars, in the courts, this narrative was integrated within the reasoning process as part of a legal argument. The function of this historical argument was usually to justify the definition of the crime that judges would provide, buttressing their decisions. Needless to say, as the courts integrated this narrative within their own reasoning, it was subject to some variation and different levels of condensation.

For instance, in *Board of Trade v Owen*, Lord Tucker J singled out the *Poulterers' Case* as the origin of the modern doctrine according to which agreements "to commit wrongful acts" were punishable "to prevent the commission of the substantive offence before it has even reached the stage of attempt."³¹ In this case, Tucker submitted to the theory of the cleavage between

26 Sayre (n 8) 421; Pollack (n 8) 344.

27 Sayre (n 8) 400–401; Harrison, *Conspiracy as a Crime and as a Tort in English Law* (n 6) 20; Pollack (n 8) 343–344; 'Developments in the Law: Criminal Conspiracy' (n 8) 923; LaFave and Scott., Jr. (n 8) 454.

28 Sayre (n 8) 402, 415, 417–419, 427; Harrison, *Conspiracy as a Crime and as a Tort in English Law* (n 6) 25; Pollack (n 8) 344; LaFave and Scott., Jr. (n 8) 454.

29 See below.

30 Sayre (n 8) 402–403, 405–406; Harrison, *Conspiracy as a Crime and as a Tort in English Law* (n 6) 22–25; Pollack (n 8) 344–345; Harno (n 8) 627–628; 'Developments in the Law: Criminal Conspiracy' (n 8) 923; LaFave and Scott., Jr. (n 8) 454; Fletcher (n 4) 222, n. 26; Morrison (n 5) 378–379; see also Gillies (n 15) 1–2 who does not give an account of the origins of Denman's antithesis; and Andrew Ashworth, *Principles of Criminal Law* (Clarendon Press ; Oxford University Press 1991) 407–408 who considers this expansionary view as a nineteenth century development.

31 *Board of Trade v Owen* [1958] AC 602 (House of Lords) 626; Cf *DPP v Nock*

modern and medieval conspiracy, but his recreation of the principle in the *Poulterers' Case* included an important variation. Tucker's choice of the word *wrongful* instead of *criminal* or *illegal* indicates that although he entertained the idea of conspiracy as an inchoate offence, he was not ready to forego a wider formulation that embraced conducts not necessarily criminal apart from the conspiracy. In other words, he blended the inchoate definition and the wide rule in a single formula.³²

In the *Knüller Case*, Lord Diplock identified three streams from which conspiracy flowed, which coincide with the three stages in the development of the law of conspiracy. Lord Diplock subscribed the cleavage between modern and medieval conspiracy. Firstly, there existed the medieval statutory writ of conspiracy.³³ Then, modern conspiracy emerged in the *Poulterers' Case* when the Star Chamber began to punish attempts as misdemeanors and since "an *attempt* required some overt act of preparation for the substantive crime and it was a natural development of this concept to treat an agreement between two or more persons to do something as an overt act by each of them preparatory to doing it. Viewed as analogous to an *attempt*, an agreement in order to be indictable as a misdemeanor had to be a step towards doing something which, if accomplished, would itself be indictable either as a felony or a misdemeanor."³⁴ The analogy with *attempt* is more apparent in Diplock's account. He clearly favors the definition of conspiracy as an inchoate offence. Thus, finally, the third stream flowed from "certain limited categories of conduct which were treated as crimes if done by persons acting in concert, but as giving rise only to a civil remedy if done by one person alone. These were mainly if not exclusively within the growing field of trade and commerce and of employment," from which, according to Lord Diplock, originated the misconception that agreements to commit acts that would not have been criminal if not committed in concert are punishable as well.³⁵

In *DPP v Doot*, Lord Salmon also believed that conspiracy was "the creation of the common law and peculiar to it. In essence it consists of an agree-

[1978] AC 979 (House of Lords) 986; *Midland Bank Trust Co Ltd v Green* [1978] Ch 496 (Chancery Division) 522.

³² It is not clear whether the court subscribed the part of the narrative about the wide rule since there is no reference to it.

³³ *Knüller (Publishing, Printing and Promotions) Ltd v DPP* [1973] AC 435 (House of Lords) 476.

³⁴ *ibid*; emphasis mine.

³⁵ *ibid* 477.

ment between two or more persons to do an unlawful act or a lawful act by unlawful means.”³⁶ This principle, Lord Salmon believed, could be traced back to the *Poulterers’ Case* (1611). So, similarly to what Tucker had done in *Board of Trade*, he blended the principle of the *Poulterers’ Case* with the wide rule. Or at least he believed that the wide rule developed out of this case. We can thus surmise that he did not believe it to be an erroneous outgrowth of the *Poulterers’ Case*.

However, the courts did not always echo the *classical* narrative. Sometimes, a completely different narrative was used as a historical argument in support of a completely different view of the definition of the offence of conspiracy. In this case, there was no conceptual cleavage between medieval and modern conspiracy. This dovetailed with the view that the right definition was the wide conspiracy. This narrative aimed to prove that this had always been a common law offence and that the medieval statute was, to use Coke’s words, “in affirmance of it.”³⁷ In *Kamara*, looking back to the medieval origins of conspiracy, Lord Hailsham maintains that “from the first the law has never confined indictable conspiracy to agreements to do that which if done by one person would itself constitute a crime... there always was some common law crime of conspiracy... though... from the reign of Edward I the common law was supplemented or declared by a series of statutes.”³⁸ Thus, “under the strict words of the statute (which applied both to the civil and the criminal remedies) the crime... was only complete when not merely was the unlawful purpose executed but, in addition, the defendant acquitted.”³⁹ In other words, there was a medieval common law conspiracy that could roughly be defined as a wide principle, and the medieval statute that codified it narrowed its scope. However, the *Poulterers’ Case* seemed to return to the wider common law origins of the offence when it “decided once and for all that the essence of the crime of conspiracy lay in the unlawful agreement and not in its execution, and the principle of this decision was taken over by the Court of King’s Bench after it assumed whatever remained of the tattered mantle of the Court of Star Chamber, and the principle has ever after remained undisputed.”⁴⁰ Then the crime began to expand to include “a number of acts

36 *DPP v Doot* [1973] AC 807 (House of Lords) 832.

37 See below.

38 *Kamara and Others v DPP* [1973] 57 Cr App R 880 (House of Lords) 897.

39 *ibid* 898.

40 *ibid*.

which, if done by a person singly, would not be punishable, were considered to become indictable conspiracies if two or more persons agreed to do them in combination, and that these could include at least some combinations to effect a public mischief, and some at least to injure by means of tort.”⁴¹ And “these classes of case have existed more or less from the beginning up to and including the present day.”⁴²

In these abovementioned cases, the judges invoked the narrative of conspiracy in support of a given view of its definition and the source it sprang from. The question of whether it was a statutory or common law offence involved different ways of defining its substance. But history could also be invoked as a *pars destruens*. This was the case of Jackson J. in *Krulewitch*.⁴³ In this American case, where the main question was about the construction of conspiracy law by prosecutors to take advantage of its procedural benefits, Jackson J, in a concurring opinion, argued against that in part, showing how “its history exemplifies the ‘tendency of a principle to expand itself to the limit of its logic.’”⁴⁴ He then explained that the principle “which contemplates no act that would be criminal if carried out by any one of the conspirators is a practice peculiar to Anglo-American law... [which] ‘originates in the criminal equity administered in the Star Chamber’... ‘the modern crime of conspiracy is almost entirely the result of the manner in which conspiracy was treated by the court of Star Chamber.’”⁴⁵ In sum, history showed that conspiracy had always been an ill-defined offence, enabling the judges to create new offences. It is true that Jackson J admitted that there was some conceptual core to the idea of organized crime as criminal itself, but this core had been pushed by courts and prosecutors to illegitimately expand the law.

This sustained interest of legal scholars in the history of the offence of conspiracy stands in stark contrast with the little attention contemporary his-

41 *ibid* 899; Cf. James Wallace Bryan, *The Development of the English Law of Conspiracy* (The Johns Hopkins Press 1909); see below.

42 *ibid*; Cf Jackson J in *Krulewitch v United States* (1949) 336 US 440, 451 who thought that “the criminality to a confederation which contemplates no act that would be criminal if carried out by any one of the conspirators... originates in the criminal equity administered in the Star Chamber.”

43 *Krulewitch v. United States* (n 42).

44 *ibid* 446; here citing Benjamin N Cardozo, *The Nature of the Judicial Process* (Yale University Press 1921) 51.

45 *Krulewitch v. United States* (n 42) 450; citing WS Holdsworth, *A History of English Law*, vol 8 (Methuen & Co Ltd 1925) 382, 379.

torians have paid to it in recent times. The last complete historical account of this wrong was written at the turn of the twentieth century.⁴⁶ Perhaps because of that, Fletcher had the impression that the development of the law of conspiracy in the early modern period was a mystery historians had not unveiled yet.⁴⁷

General works on the history of the common law go hastily over the history of the law of conspiracy—understandably so, since these large syntheses always have to struggle with the dilemma of choosing between breadth and depth. For instance, although Keith Smith recognizes that conspiracy “shared the common law origins of attempt and incitement” and that “it was well established as an inchoate offence by the nineteenth century,” he does not make any effort to at least summarize this development.⁴⁸ J. H Baker only discusses conspiracy in some depth as an economic tort,⁴⁹ and he explains that “the law of conspiracy was even wider in scope” than the tort⁵⁰ and that it was “largely the creation of the Star Chamber.”⁵¹ But he gives no account of the development of the law out of the Star Chamber.

Only with regard to the history of trade unionism in the nineteenth century have legal historians taken some interest in the history of conspiracy. Indeed, this interest has resulted in a monograph.⁵² The focus of these works has naturally been on the application of the law of conspiracy to trade unions in the nineteenth century. In Orth’s work, the development of the law up until the eighteenth century is dealt with in little more than three pages.⁵³ MacNair

46 Bryan (n 41); Percy Henry Winfield, *The History of Conspiracy and Abuse of Legal Procedure* (Cambridge University Press 1921); WS Holdsworth, *A History of English Law*, vol 3 (3rd edn, Methuen & Co Ltd 1923) 394–407; WS Holdsworth, *A History of English Law*, vol 5 (2nd edn, Methuen & Co Ltd 1937) 203–205; Holdsworth, *A History of English Law* (n 45) 378–401.

47 Fletcher (n 4) 221–2.

48 WR Cornish and others (eds), *The Oxford History of the Laws of England: 1820–1914 Fields of Development*, vol 13 (Oxford University Press 2003) 314–15.

49 John H Baker, *An Introduction to English Legal History* (4th ed, Butterworths LexisNexis 2002) 459–64.

50 *ibid* 461.

51 *ibid* 119.

52 John V Orth, *Combination and Conspiracy A Legal History of Trade Unionism, 1721–1906* (Oxford University Press 1991).

53 *ibid* 25–7.

is not concerned with it,⁵⁴ and the focus of Lobban is much narrower in scope, limited to the expansion of conspiracy in relation to unionism after the passing of the Act of 1825 that repealed the Combination Acts.⁵⁵

But most importantly, these historians want to show how the judges took an active role in criminalizing and prosecuting trade unions, particularly after the passing of that Act of 1825. Since the tool they used to achieve their purposes was the law of conspiracy, these authors focus on the wider and vaguer definitions of conspiracy that allowed greater judicial discretion. In contrast to criminal law scholars, their historical narratives deemphasize the idea of a conceptual cleavage between medieval and modern conspiracy, and that modern conspiracy was an inchoate crime laid down in the *Poulterers' Case* for the first time. Thus, in Orth, the narrative of the law of conspiracy begins as usual with the medieval statutes that made "an agreement to abuse the legal system by maliciously indicting an innocent person" a crime.⁵⁶ However, "conspiracy was in time taken over by the common law, expounded in judicial decisions in particular cases" so that by the early eighteenth century it meant "an agreement to do something unlawful"⁵⁷, turning into "the latest of many offences that had begun as offences against public justice and that were later generalized to apply in other contexts."⁵⁸ The *Poulterers' Case* only deserves a footnote indicating that the Star Chamber had held "that the gist of the offence was the agreement rather than the subsequent appeal or indictment and acquittal,"⁵⁹ suggesting rather a construction of the medieval statute than an independent principle. But Orth rejects that any inchoate offence had emerged out of that decision.⁶⁰ Likewise, MacNair's does not mention the *Poulterers' Case* nor the idea of an inchoate crime and dismisses the argument that the Star Chamber had expanded the scope of medieval conspiracy.⁶¹ MacNair argues that through the early modern period, "conspiracy had become indelibly associated in lawyers' mind with abuse of legal process

54 Mike Macnair, 'Free Association versus Juridification' (2011) 39 Critique 53.

55 M Lobban, 'Strikers and the Law, 1825-51', *The Life of the Law: Proceedings of the Tenth British Legal History Conference Oxford* (1993).

56 Orth (n 52) 25.

57 *ibid* 26.

58 *ibid* 27.

59 *ibid* 26 n 25.

60 *ibid* 40-1.

61 Macnair (n 54) 61-3.

and what is today called malicious prosecution”⁶², but that “the protean and ill-defined general common law crime of conspiracy, going well beyond its historical antecedents, which came to be used more or less explicitly to criminalize anything the judges disapproved of” was the result of the application of conspiracy to trade associations by the early eighteenth century.⁶³

Summing up, for criminal law scholars, the offence of conspiracy originated in the middle ages, it was created by statute, and it referred to wrongs related to the administration of justice. The modern concept of conspiracy as an inchoate offence originated in the Star Chamber’s jurisdiction and was first established in the *Poulterers’ Case*. However, the scope of application was limited to that of medieval conspiracy. This principle was later generalized into the idea that conspiracies to commit any crime are criminal in themselves. In addition to that, an even wider principle was developed as an offshoot of the *Poulterers’ Case*, but this was probably based on an erroneous interpretation.

One wonders why criminal law scholars and courts have shown such interest in the history of conspiracy, or at least continue to write about it. It seems that since the law of conspiracy is a judicial creation, it “is essential to a complete understanding of the position which it occupies in our modern legal system... [and] if not to define it, at any rate to collect the material for a more precise definition.”⁶⁴ In other words, this is the historical method of determining the substance of conspiracy. Hence, it becomes apparent why it was so important to determine the origins of the conspiracy, distinguishing between modern and medieval conspiracy, as well as whether the medieval conspiracy was statutory or common law-based. In each case, choosing one option or the other changes the substance of the offence.

However, this could have been the reason once, but not nowadays, when the offence of conspiracy has been statutorily defined in the UK, and in the US the Model Penal Code offers a standard for its codification. The purpose of including a historical account of the offence of conspiracy could neither help clarify nor fix the law. In all indication, this narrative around the *Poulterers’ Case* must have originated in a different context.

62 *ibid* 62.

63 *ibid* 64.

64 Harrison, *Conspiracy as a Crime and as a Tort in English Law* (n 6) 1–2.

The Practitioner's Conspiracy

The role that nineteenth century legal scholars played in shaping modern conspiracy as we know it is often overlooked if not completely ignored. The most recent works on the emergence of modern conspiracy display a bias towards considering cases and legislation as the main sources of law.¹ If they mention scholarly writing, it is only to reveal the excesses that courts committed in relation to trade unions. But they assume that they are mere testimony of their time with no creative role to play.

However, if we instead shift our historical attention towards legal scholars and grant their textbooks and articles a prominent role as sources of law, we will realize they may have played a larger role in shaping our understanding of the law of conspiracy than one would like to think. Indeed, this shift in focus offers a different interpretive context for the history of conspiracy in the nineteenth century and repositions the role played by the trade unions issue. I am talking of the push for the formalization of the unwritten common law and its reduction to a set of clearly defined abstract concepts.² I am also referring to the growing interest in building a veritable legal science of the common law, which emerged in parallel to the codification movement, but was not necessarily identical to it.³ Such legal science would distill the common law into formal knowledge that could be taught and learned in formal educational institutions as opposed to the practical knowledge that was acquired with experience in legal practice.⁴

It is in this context that the first attempts to articulate an abstract general definition of conspiracy took place. The narrative centered around the

1 See Orth (n 52); Lobban, 'Strikers and the Law, 1825-51' (n 55); Macnair (n 54).

2 Michael Lobban, *The Common Law and English Jurisprudence, 1760-1850* (Oxford University Press 1991) 185-222.

3 Although for some scholars both code and formal knowledge coincided, not everybody was persuaded of the need or even the timeliness of the codification of the common law. Maine, for instance, saw the benefits of a formal education but feared the rigidity of a codified law Henry Sumner Maine, 'Roman Law and Legal Education', *Village-Communities in the East and West. Six Lectures Delivered at Oxford* (7th edn, John Murray, Albemarle Street 1895); See also Petit's introduction in Max Radin, *Cartas romanísticas: 1923-1950* (Carlos Petit ed, Jovene 2001).

4 John Austin being the embodiment of this view Lobban, *The Common Law and English Jurisprudence, 1760-1850* (n 66) 223-257.

Poulterers' Case emerged out of that effort, not as an appendage, but as a typical method of scholarly law to reveal what the law is. This is the historical method of jurisprudence or what has been called the doctrinal internal history.⁵ It consisted in ascertaining the law implicitly contained in the cases, assuming that leading cases such as the *Poulterers' Case* embodied concepts even if those were not explicitly mentioned or laid down by the court. These imperfectly formulated concepts were progressively developed and clarified through lines of cases until the legal scholar put the icing on the cake giving the concept its final abstract shape.

In that sense, the rise of the modern treatise or textbook appears as a vantage point from which to observe the emergence of modern conspiracy.⁶ Simpson has shown how the rise of the modern treatise—understood as a monograph concerned with a single legal matter that is systematically and substantively arranged—reflects changing ideas about the nature of the common law.⁷ Such ideas progressively move away from authority to reason.⁸ Indeed, the view of the law as authority originally dominated treatise writers, who continued to simply repeat what the cases said since they derived their legitimacy from them.⁹ Eventually, however, a new view of the law as reason could be detected, as legal writers began to push the case law to the outer boundaries of the paratext, synthesizing it in an increasingly abstract manner.¹⁰

Simpson focused his attention on the concept of law, but through the emergence of the modern treatise, we can also chart other changes in the common law mind. For one thing, we can attest shifting views on the epistemological status of the law as a form of knowledge.¹¹ It is clear that the view

5 Michael Lobban, 'The Varieties of Legal History' [2012] Clio@Thémis <<https://cliothemis.com/The-Varieties-of-Legal-History>>.

6 This use of the history of the modern legal treatise to chart changing conceptions of the law had already been pioneered by AWB Simpson, 'The Rise and Fall of the Legal Treatise: Legal Principles and the Forms of Legal Literature' (1981) 48 *The University of Chicago Law Review* 632; Also by Lobban more recently, although with a different focus on the tensions between the remedial system and positivist jurisprudence Lobban, *The Common Law and English Jurisprudence, 1760-1850* (n 66).

7 Simpson (n 70) 633–4.

8 *ibid* 665.

9 *ibid* 638.

10 *ibid* 640.

11 Lobban, *The Common Law and English Jurisprudence, 1760-1850* (n 66) 288.9.

of the law as authority is associated with the belief that the law is mainly a practice, and a form of tacit knowledge that cannot be transmitted in a formal setting, but rather learned through experience in actual practice through an apprenticeship.¹² The law as reason, and the treatise as a system of principles, in contrast, imply that law is a science, a form of declarative knowledge that can be formalized in a rational way and learned in a formal setting. Indeed, the very first attempt to formalize common law sprung from a desire to teach it in university, as a form of general knowledge.¹³

The rise of the modern treatise also involves the irruption of scholarly law in the common law tradition. New law is not only created by courts and legislatures, but also by legal scholars. Lawmaking by the latter, however, is not a straightforward business. Innovation must be dressed in some existing authority's clothes. In this sense, legal scholars operate like the courts.¹⁴ In the case of the *ius commune* tradition, this meant looking through the mirror of Roman or canon law. However, the common law scholar was embedded in a different context in which they had to compete with the real force in the development of the law -the judge.¹⁵ Consequently, since legal innovations must be referenced back to the case-law, legal creativity often happens as the scholar first ascertains, and then restates the law in broader and more general terms. This process often adopts the form of an inquiry into the right principles governing the case law, that is, an internal doctrinal history.

This does not mean that these inquiries cannot arise out of narrow issues. As we will see, in the case of R. S. Wright, the distillation of the law of conspiracy was in response to a specific narrow legal issue: are trade unions' collective action criminal conspiracies at common law? The problem of the formalization of conspiracy was at the center of the debate on the legality of trade unions, which would become very heated, particularly by the second half of the nineteenth century. Trade unions and their collective actions had been criminalized under the institution of the common law crime of conspir-

12 Brian J Moline, 'Early American Legal Education Centennial Issue' (2004) 42 Washburn Law Journal 775, 774, 780-1, 783, 788, 802.

13 Alan Watson, 'The Structure of Blackstone's Commentaries' (1988) 97 The Yale Law Journal 795, 810.

14 Alan Watson, 'Aspects of Reception of Law' (1996) 44 The American Journal of Comparative Law 335, 346.

15 John Henry Merryman, *The Civil Law Tradition: An Introduction to the Legal Systems of Western Europe and Latin America* (2nd ed, Stanford University Press 1985) 57.

acy. Inevitably, this debate would shape the substance of the general abstract definition of conspiracy.¹⁶

Finally, the rise of the modern treatise also reveals the emergence of an abstract understanding of the common law, which would later be referred to as legal formalism, or jurisprudence of concepts. Legal concepts began to be understood independently of the context of the case. That meant that their structure that so far had been casuistic, as in the case of conspiracy, was increasingly understood in terms of abstract definitions. In turn, this translated in a form of reasoning that was less analogical and more syllogistic and deductive. This can also be seen in the case of *conspiracy*. At the beginning of this period, we come across the *telic* understanding of conspiracy. The concept of conspiracy was not independent from context and structure. As such, it was basically a list of cases that evolved over time into a typology of purposes for which it was illegal to conspire.

In conclusion, the *Poulterers' Case* narrative was not a mere ornament in nineteenth century legal treatises. It played a central role in the mid-Victorian debate on the trade unions issue. It also revealed the true substance of the offence and was therefore a necessary step towards its abstract definition. As we will see, this debate intersected with, and was shaped by a new view of the law and legal science that was emerging at the same time. In order to understand how these changes bore on the development of conspiracy, we need to first look at how this offence was treated in legal treatises before the second half of the nineteenth century.

These early treatises have been collectively described as *practitioner's treatises*. They reflect a view of the law as authority.¹⁷ That means that their main objective is to digest and organize decided points out of the cases. They are above all reference books for the practitioner. Methodologically speaking, the cases are summarized or condensed. The main points are extracted and expressed verbatim or in a paraphrasis that is very close to the source. Facts and arguments may appear, but there is no interest in finding and restating the law of decided cases. The organization of these points of law is shallow and practical. It amounts to an index of the decided points with no other in-

16 The view of conspiracy as an extension of the law of attempts, Orth explains, was an invention of nineteenth-century legal scholars and their tentative definitions on this common law offence so that it would exclude trade unions and their practices from criminal liability; Orth (n 52) 40–1.

17 Simpson (n 70) 665.

tent than organizing the materials. The alphabetical serial organization of the previous abridgment tradition is replaced by substantive topic matters hierarchically organized in analytical indexes with headings and subheadings. They may look like logical taxonomies based on principle, but at the lowest level, the textual organization is usually the mere juxtaposition of the materials with no apparent order to it. Sometimes, there is a discursive organization, but it is not a coherent or narrative one informed by an analytical structure but rather digressive and associative, as in a stream of conscience.¹⁸ Sometimes, the older procedural arrangement of the materials can reappear under the substantive headings. Legal references can appear in the text itself, or in the margins and footnotes.

Although usually thought of as institutional writers, we must start our account with Coke, Hawkins, and Blackstone. It is true that the latter two set out to go beyond the cases and to express the common law as a rational system and that the former conceived the law as embodying maxims of reason.¹⁹ But on closer inspection, we shall realize that these higher expectations do not fully materialize in their institutional works, and that more often than not they simply superimpose arrangements borrowed from other traditions on what essentially was an unruly jumble of cases tethered to procedure.²⁰ In that sense, their works also worked as practitioner's reference books.

Coke

Coke's treatment of the offence of conspiracy reveals this ambivalence towards the law as authority and as reason, as a practice and as a science. He dedicates an entire substantive chapter to conspiracy.²¹ On the one hand, Coke follows a procedural understanding of the law of conspiracy not unlike that of Fitzherbert or Staunford. Thus, he starts off with a description of the wrong as typically expressed in the forms of action: "conspiracy is a consultation and agreement between two or more, to appeale, or indict an innocent

¹⁸ *ibid* 639.

¹⁹ *ibid* 644, 653–4, 658.

²⁰ See Watson (n 77).

²¹ "Of conspiracy," 3 Co Inst 143. Elsewhere Coke discusses the law of conspiracy on occasion of a commentary on the statute *Articuli Super Chartas* 1300 (28 Edw 1 c 10), but he follows a similar structure that he closes with a full summary of the case, including the form of the writ, the pleading, and main points decided (2 Co Inst 561); see also 3 Co Inst 383.

falsely, and maliciously of felony, whom accordingly they cause to be indicted or appealed; and afterward the party is lawfully acquitted by the verdict of twelve men.”²² He then follows with the different remedies or proceedings available to redress this wrong: “First, by a writ of conspiracy, which is a civill or common action at the suit of the party, wherein the plaintiff shall recover damages, and the defendant shall be imprisoned. Secondly, by indictment at the suit of the king, the judgment whereof is criminall.”²³ He continues by discussing the judgment or punishment for this wrong under criminal proceedings, the so-called infamous *villainous judgment*. He concludes the chapter by briefly summarizing a point decided, which is whether defendants of conspiracy were mainpernable.²⁴

The concept of conspiracy that emerges from this methodology is pretty much entangled with the forms of action. It is casuistic and dovetailed with a view of the law as authority, and primarily as a practice rather than a science.²⁵ On the other hand, however, these more cursory descriptions of the form of conspiracy are completed with remarks that express a different understanding of the nature of the law as immemorial custom that identifies with maxims of reason. These remarks are made elsewhere, as he comments on other statutes bearing on the law of conspiracy. Coke believed that these early statutes were in affirmance of the common law.²⁶ Borrowing from the *Mirror of Justices*, he sustained that they were based on the ancient law which “began in this sort before the raigne of H. 1. They which plotted, or compassed the death of a man under pretext of law by bringing false appeales, or prefer-

22 3 Co Inst 143; cf Fitzherbert’s opening description of the wrong “a Writ of Conspiracy lieth where two, three, or more Persons of Malice and Covin do conspire and device to indict any Person falsely, and afterwards he who is so indicted is acquitted,” FITZ NB 14 D; also Staunfords’ “al comen ley, cest brief gisoit auxibien in acquital sur appel, come il fait a cest iour in acquital sur enditement,” that “cestuy qui serra charge in conspiracy, duis estre charge que il ceo fist faulxement & malicieusement sans ascun bo[n] ou droitful foundation,” and that “conspiracy ne peut estre commise p[ur] un person solement, eins deux al meyns, & pur ceo cel action ne voet estre maintenus vers un solement.” Staunford PC, Liber 3 c 12, 172, 173.

23 3 Co Inst 143.

24 *ibid*.

25 Even if Coke’s ‘chaotic writings’ stood apart from other abridgments as deriving their authority from him Simpson (n 70) 636.

26 Namely, Statute Concerning Conspirators 1293 (21 Edw 1), Articuli Super Chartas 1300 (28 Edw 1 c 10), and *Ordinacio de Conspiratoribus* 1305 (33 Edw 1); 2 Co Inst 561-2).

ring untrue indictment against innocent of felony, who being duly acquitted, both the appellant and his abettors were to suffer death.”²⁷ This ancient law, indeed, echoed the talionic principle of responsibility behind the Roman *calumnia* and through which Bracton interpreted the law of appeals, indicating the possible source of the *Mirror*’s contention.²⁸ Likewise, Coke drew from the *Mirror* that this principle was modified by H. 1. “to mitigate the severity of this ancient law”, replacing the talionic punishment with an infamous one and instituting civil proceedings in addition to criminal punishment.²⁹

Indeed, most of the main chapter on conspiracy describes in detail this infamous punishment called the *villainous judgment*. This discussion further reveals Coke’s understanding of the principle involved in the law of conspiracy. The rationale for this punishment was “that the offenders have plotted the death and shedding of the blood of an innocent... that they do it under faire pretence of justice and by course of law... that if they had attained the innocent... his blood thereby should have been corrupted... [and that] all this falsehood, malice, and perjury is committed in placito corone, in a suit for the king, which aggravateth and increaseth the offence.”³⁰ So Coke thought that the reasons for instituting this offence were multiple: the murderous intent harbored by the false accusers, the perversion of justice, the infamy and harm to honor and estate that would have befallen the defendant indicted of felony, and the fact that the prosecutors had been acting on behalf of the king. In other words, he conceived of conspiracy as a sort of attempt of murder, as a form of perversion of justice, as a form of defamation and dispossession, and a sort of abuse of office since the prosecutors acted on behalf of the king.

Compared to other writers who limited themselves to abridge the law of conspiracy, like Fitzherbert or Staunford, Coke goes out of his way to provide a rationale for the offence. In that sense, Coke has a more abstract understanding of the offence as independent from the cases. He thinks in terms of broad principles or maxims such as the talionic one; the cases embody that principle. However, Coke also applies the antiquarian method and searches for the oldest authority possible to show that this principle of reason has been the law of the land since time immemorial. He does not conceive history as an empirical record of the organic development of the law over time by judicial legislation

27 3 Co Inst 383.

28 See below.

29 3 Co Inst 383.

30 1 Co Inst 143.

but as a source of legitimacy. Nor does he have a historical awareness of the law, since all comes down to principles and maxims of reason. Law is not contingent. History is prescriptive; hence his interest in antiquarianism.

Coke's view of the law as immemorial custom and reason left no room for the idea of innovation. At much, statutory law modified ancient custom, but did not supersede it. Law could not be created but only declared. Indeed, in providing the rationale of the law of conspiracy, he was not merely reproducing the case law because this rationale was nowhere to be found (except in the *Poulterers' Case* which he does not cite in this context). That set his treatment of conspiracy apart from that of the abridgment writers. But on the basis of what authority did he declare the law? It has been said that his treatise became authoritative because of the authority of its author.³¹ I would add that the author was an authority because he was a judge and could declare the law in a treatise, even though he was not acting in such capacity in a court of law. In sum, vested with the authority of a judge, Coke could declare the law in a scholarly work without it being scholarly law. Indeed, according to his view of the law, innovation was bad law. That is why he presented this principle as an ancient one. And this is the quid of the antiquarian method, aimed not at finding and stating the law implicit in legal decisions, but at locating the oldest form of a given principle.

Hawkins

In his *Pleas of the Crown*, Hawkins sets out to “reduce the laws concerning criminal matters, and to reduce them into as clear a method, and explain them in as familiar a manner, as the nature of the thing will bear,” since “by reducing all laws relating to this subject under one general scheme, they might be generally understood with much less difficulty than they have hitherto been.” Hawkins saw himself as following in the footsteps of Hale, Coke, Staunford, Lambard, Crompton and Pulton, all of whose attempts to reduce the law to a system had been incomplete. It is true that this goal seemed to spring from his view that law is reason. The crown law, he writes, “is so agreeable to reason that even those who suffer by it, cannot charge it with injustice,” and with this system, he intends to “vindicate the justice and reasonableness of the laws concerning criminal matters.”³²In consequence, pushed case references

³¹ Simpson (n 70) 636.

³² 1 Hawk PC Author's Preface.

out to the margin of the text. However, as with Blackstone later, the whole endeavor of reducing the common law to a system did not get far from the analytical index at the beginning of his treatise. It was a shallow arrangement of existing materials with little or no rational restatement of the law under each heading. In the words of the *Pleas of the Crown*'s late eighteenth-century editor, the work was a "complete code of English jurisprudence," that is, "a most valuable digest of the common law."³³

The traditional practitioner's view of the law becomes visible when we descend to the level of the chapter. Under the general headings opening each chapter, sometimes there is a short analytical paragraph indicating the place of the offence within the general scheme, as well as the typology of offences under the general heading, in case there are further subdivisions. For conspiracy, there is no such paragraph at the beginning, although in the chapter on perjury, conspiracy appears as an "offence under the degree of capital, more immediately against the subject, not amounting to an actual disturbance of the peace, which may be committed by private persons, without any relation to an office... such as are infamous, and grosly [sic] scandalous, proceeding from principles of downright dishonesty, malice, or faction."³⁴ This classification provides some rationale for the offence, but it was not a definition, nor did it inform the structure and content of the chapter.

After this introductory paragraph, some chapters continue with a summary of the main points that will be dealt with, followed by a series of numbered paragraphs divided according to these points. It is in this choice that the traditional practitioner's view of the law reemerges. These points are matters of procedure, from pleading to judgment. They revolve around the traditional wrong/remedy structure. In the case of conspiracy, the two main points structuring the chapter are: "1. Who may be said to be guilty of Conspiracy", and "2. In what manner such offenders are to be punished." It is true that the beginning of the chapter is not a mere juxtaposition of points decided but is rather discursive and argumentative. However, the rest of the chapter continues in the characteristic practitioner's fashion, with a series of points of pleading (and potential reasons to quash indictments), concerting jurisdiction, exceptions as to witnesses, jurors, prosecutors, as well as the plural-

³³ 1 Hawk PC, Leache's Preface to the sixth edition.

³⁴ 2 Hawk PC c 69, repeating information he had already provided in the analytical index.

ity requirement,³⁵ and ends with a summary of the different proceedings by which the wrong of false indictments could be remedied.³⁶

The first point seems to be about the definition of the offence, the source of which Hawkins thinks “there can be no better rule than the statute of 33. or rather 21 Edw I.”³⁷ But Hawkins’ opening with this statute was a deliberate choice, and the first move in a legal argument. Indeed, Hawkins spends most of the first part of the chapter arguing a point of law against Coke’s definition of the offence: whether the acquittal of the party is a necessary requirement for the remedies for conspiracy to lay down, that is, whether the wrong committed by a false accusation that did not amount to an indictment is within the law. According to Coke’s definition it is not. However, Hawkins argues that “from this definition of conspirators it seems clearly to follow, that not only those who actually cause an innocent to be indicted, and also to be tried upon the indictment whereupon he is lawfully acquitted, are properly conspirators, but that those also are guilty of this offence, who barely conspire to indict a man falsely and maliciously, whether they do any act in prosecution of such conspiracy or not.”³⁸

In other words, the issue seems to be one of law: whether there is any remedy for false accusations without formal indictment and acquittal. It follows from Coke that there is none, since the form of the wrong includes the acquittal requirement. Reasoning as a lawyer, Hawkins traverses this point by mustering different arguments, some of which are based on statute, some on reason, and some on authority. After his opening argument that there is remedy under a statute that does not refer to the acquittal requirement, he moves on to the spirit of the law, arguing that “if such confederacy be within the letter of the statute, there seems to be no manner of reason to say, that they are not also within the meaning of it, since it is a high contempt of the law, barely to engage in such association to abuse it, to serve the purposes of oppression and injustice.” He then buttresses this interpretive argument with reason, stating that “neither can it be a severe construction which will bring a crime so evidently contrary to the first principles of common honesty, within the meaning of a law.”³⁹

35 *ibid* ss 3-8.

36 *ibid* s 9.

37 2 Hawk PC c 72 s 1.

38 *ibid* s 2.

39 2 Hawk PC c 72 s 2.

He concedes that Coke may be right if one considers the civil, rather than the criminal remedy for the wrong. The form of the action seems to indicate that “a bare conspiracy to indict a man will not maintain a writ of conspiracy at the suit of the party grieved... unless the plaintiff be lawfully acquitted.” Hawkins, however, refuses to concede this point as well, since he finds precedents in the *Register* suggesting that “an acquittal by verdict is not always necessary to maintain such a writ.” Even if there were no precedents, he argues, “and why may not a new writ as well be formed in any other case which is as much within the mischief of the statute as this?”⁴⁰ In doing so he implies that Coke had mistakenly derived his definition of the offence from the form of the writ, while the substance of the writ actually derived from and was controlled by the statute. That is why the “stated form of such writs should [not] restrain a proceeding by way of indictment or information against persons which are apparently within both the letter and meaning of the statute.” Hawkins considered that this opinion was “not wholly unsupported by authority, as appears from the Poulterers Case in Coke’s Ninth Report.” Nevertheless, the question of the civil remedy by writ is irrelevant since “it is certain that an action on the case in the nature of such writ doeth lie... though it do [sic] not proceed to an actual indictment, or appeal, that the same damages may be recovered in such an action as in a writ of conspiracy.”⁴¹

It follows from this argument that, though Hawkins did not explicitly address Coke’s contention that conspiracy was a common law offence, he believed that it was a statutory one, and most importantly, that the point whether conspiracies without acquittal were within this statute had been decided in the *Poulterers’ Case*. That Hawkins believed this to be the case is reinforced by the fact that he thought that “It seems certain, that a man may not only be condemned to THE PILLORY, but also be branded, for a false and malicious accusation.”⁴² This was the punishment that the Star Chamber had provided, and since Hawkins does not provide any authority in support of his claim that this was the punishment, it is not too far-fetched to think that he took it from the *Poulterers’ Case* itself, where this form of punishment is mentioned.⁴³

40 *ibid.*

41 *ibid.*

42 *ibid.*

43 *The Poulterers’ Case* (n 20) 57 a; 73 ER 813, 815; cf. 2 Hawk PC c 72 s 9 where he discusses the villainous judgment at the suit of the king, though he does “not find this point anywhere settled.”

However, either Hawkins wanted to have it both ways or he is a blatant illustration of the stream of conscience style of treatise writers of the time. Indeed, after arguing the point, he concedes that “since it doth not appear to have been solemnly resolved that such an offender is indictable upon the statute... it seems to be more safe and advisable to ground an indictment of this kind upon the common law than upon the statute.”⁴⁴ In other words, in the end, the validity of the point comes down to authority rather than reason.

It is unclear what Hawkins meant by the common law here, and whether this offence and the statutory one described at the outset were two independent offences, or whether they were related. In the text, he provides what seems an indirect abstract definition of this common law offence, stating that “there can be no doubt but that all confederacies whatsoever, wrongfully to prejudice a third person, are highly criminal at common law”. He follows this with examples of the principle as applied by the courts.⁴⁵ But the apparent definition is more of a summary of the cases. In other words, the understanding of this common law offence is again casuistic and not abstract. It coincides with the cases. Indeed, one of the cases that he mentions as an example of this common law offence is the *Poulterers’ Case*, which is described here as a confederacy to maintain. However, Hawkins is inconsistent in his use of this authority, for earlier in the text he uses it to support his point that false accusations without acquittal were within the statute of conspirators. In sum, this is one of the first formulations we have of the telic conspiracy. It features an attempt to summarize the cases according to sorts of purposes.

In conclusion, Hawkins’ chapter on conspiracy falls short of his purpose of reducing the law to a *general scheme*. For sure, there is an organizing scheme, but the law is not *reduced* to it, but is rather digested and arranged according to the scheme or index. Below the level of the headings, there was not a philosophical but the common law mind with its focus on the cases and its concern with points decided and pleading. And his concept of the common law is ambiguous too. Though he definitely tries to present the common law as rational, he clearly does not reduce it to a rational system. Below the

44 2 Hawk PC c 72 s 2.

45 “As where divers persons confederate together by indirect means to impoverish a third person, or falsly and maliciously to charge a man with being the reputed father of a bastard child, or to maintain one another in any matter whether it be true or false,” *ibid* s 2; citing *Starling case* (1 Lev 62, 126; 1 Sid 174; 1 Keble 350) *Bass, Armstrong and others* (1 Lev 62; 1 Mod 185, 186; 1 Sid 68; 1 Keble 254), and the *Poulterers Case*.

analytical scheme we do not have rational and abstract propositions drawn from the cases, but points decided and arguments of pleading, that is, law as authority.

Hawkins is also ambivalent as to the source of the law of conspiracy. Though he seems to suggest that it is a statutory offence at first he then changes course and refers to a common law offence without clarifying whether he is referring to the same offence or different ones. Furthermore, to make things even more obscure, he cites the *Poulterers' Case* both as authority in support of the construction of the statutory conspiracy so that it included false accusations without acquittal, as well as an instance of the common law offence independent from the statute.

Blackstone

Blackstone's treatment of the law of conspiracy is representative of this truncated system. His alleged purpose is to reduce the law to a system of abstract categories. On the upper level, he fulfills this goal by creating a taxonomy of superordinate abstract categories the law will be classified under. Within this system, the law of conspiracy is classified both as a private wrong or injury committed respect of person's right to a "reputation or good name"⁴⁶ and as a public wrong or crime committed against the public or collective right for public justice by abusing or perverting it.⁴⁷

From this point of view, it seems that rights precede and are not created by remedies. However, at the lower subordinate level, Blackstone does not follow through in describing the law of conspiracy in equally abstract terms. Instead, what we find is that he accommodates and integrates the old remedial system of the forms of action within his scheme. Thus, his understanding and definition of the concept of conspiracy is not abstract, but context-dependent.

First, in contrast to Coke and Hawkins, both of whom entertained the existence of a wider concept of conspiracy in addition to the idea of false accusation within the context of the administration of justice, Blackstone only defines the wrong as "a conspiracy to indict an innocent man of felony falsely and maliciously, who is accordingly indicted and acquitted,"⁴⁸ or as "prefer-

46 3 Bl Comm 126.

47 4 Bl Comm 136.

48 *ibid* 136.

ring malicious indictments or prosecutions.”⁴⁹ In that sense, it is quite telling that he does not mention the *Poulterers’ Case*, which seems to be connected to Coke’s and Hawkins’ view of a wider concept of conspiracy.⁵⁰

Second, he continues to reproduce the old understanding of this concept of false accusation in terms of different procedural pathways or remedies: by writ of conspiracy, by indictment, and by a special action on the case. This implies that the understanding of the concept of conspiracy was subject to different variations according to the path chosen. Thus, by writ and indictment “there must be at least two to form a conspiracy”⁵¹ but not by action on the case. Likewise, to proceed by writ or indictment “it is necessary that the plaintiff should obtain a copy of the record of his indictment and acquittal,”⁵² but the action on the case “could be founded upon an indictment, whereon no acquittal can be had; as if be rejected by the grand jury, or be *coram non judice*, or be insufficiently drawn.”⁵³ Though he tries to rationalize this distinction between writ and action in terms of the different wrongs that these proceedings remedy, “for it is not the danger of the plaintiff, but the scandal vexation, and expense”⁵⁴ that the latter remedied, it does not make much rational sense to keep these distinctions instead of unifying them under a single concept (unless, of course, he did not want to fly too high from authority).

At the same time, in contrast to Coke’s and Hawkins’, Blackstone’s description of the law of conspiracy was more or less abstracted from the case law and from decided points, keeping citations of authorities to a minimum of footnotes. Likewise, Blackstone did not mention the sources of the law of conspiracy. Indeed, reading from his treatise only, it is hard to tell whether

49 3 Bl Comm 126.

50 Although it is worth mentioning that in commenting conspiracy as a crime, Blackstone says that “to this head may be referred the offence of sending letters, threatening to accuse any person of a [punishable] crime... with a view to extort from him any money or other valuable,” 4 Bl Comm 136; this echoes the cases that were decided immediately after the *Poulterers’ Case* where the principle in this case was invoked to prosecute cases where there was no formal charge but a *conspiracy* to extort someone by threatening them with false accusations. The specter of the *Poulterers Case* can also be seen in his comments on the *villainous judgment* as being “by long disuse become obsolete” and the crime of conspiracy “instead... usually sentenced to imprisonment, fine, and pillory; *ibid*.”

51 *ibid*.

52 3 Bl Comm 126.

53 *ibid* 127.

54 *ibid*.

the law sprung from the common law or from statute. The only reference there is to the source of the law of conspiracy is in relation to the *villainous judgment* defendants prosecuted by indictment, which was received as being “by the ancient common law.”⁵⁵

Chitty

The practical purpose of these early treatises is nowhere more explicitly expressed than in Chitty’s criminal treatise. As Chitty writes, his purpose was to “take a comprehensive and practical view of the Criminal Law.” This meant that he focused on criminal proceedings rather than substance. Indeed, this is structurally signposted: the first and last volume out of four deal with “the principles, rules, and practice which affect criminal prosecution in general, from their commencement to their conclusion,” and with the “pleas to indictments and informations, and proceedings thereon; and the practical forms to be adopted by magistrates and others in the course of the prosecution, whether by indictment or information.”⁵⁶ Furthermore, the volumes dealing with substantive law have a practical approach too, as he wanted to provide a “a practical view of every description of crime; the process against the offender; the requisites of the indictment; the defence and the evidence; the judgment and the punishment; and then are given forms of indictments, informations and presentments, for each offence; with notes on the particular parts of each precedent.” Indeed, although chapters dealing with substantive matters are “arranged in a systematic order resembling that adopted by Mr. Justice Blackstone and Mr. East”, they are far from dealing with substance only. They are mostly devoted to collecting precedents of forms of indictments, and what Chitty declares to be “a distinct treatise upon each branch of the criminal law,”⁵⁷ seems more of an afterthought conflated to his practical treatise in the form of *preliminary notes* to these collections of indictments. It is safe to say that Chitty wrote his treatise with a practical goal in mind, and that he then added, as an extra layer, a more substantive treatise in the form of Hawkins’ or Blackstone’s. In some way, he reverted the perspective, as seen earlier, of those authors who tended to work on two levels, with a more ab-

⁵⁵ 4 Bl Comm 136.

⁵⁶ Joseph Chitty, *A Practical Treatise on the Criminal Law: Comprising the Practice, Pleadings, and Evidence Which ...*, vol 1 (Isaac Riley 1819) iii.

⁵⁷ *ibid* xii.

stract arrangement at the upper level of the treatise, and a mainly procedural understanding of the offences at the lower level of the text.

Chitty's view of the law centered on authority is manifest in that in addition to "merely collecting materials from abridgments, indexes and treatises," he had also "searched for and examined authorities in all the books of reports."⁵⁸ Indeed, he advertises that he had digested "all the approved precedents which can be found in print, with very numerous manuscripts precedents, with many of which I have been favoured by friends at the bar, and from the public offices, and others which I have long been collecting in the course of my own practice... I am the more confident in their accuracy," and that "numerous decisions will be referred in the notes, and in order to afford the reader every access to information, the abridgments and treatises are also referred to."⁵⁹

In sum, Chitty's main goal is to reproduce and digest the criminal law. And the arrangement or organizing principle is mainly a practical one with a focus on the structure of criminal proceedings. As for the substantive arrangement embedded within this procedural one, the headings are similar to those of Hawkins or Blackstone: "offences against God, religion, and public worship; morality and decency; the law of nations; the king, government, and public officers; offences relating to coin and bullion; against revenue; against public justice; against public peace; against trade; against health; against public police; against the person of individuals; against personal property; against real property."⁶⁰ However, the offence of conspiracy no longer appears subsumed under any of those main headings but as a main heading of its own, signifying a new category of offences. As such, it is worth examining how Chitty digests the substance of conspiracy in the preliminary note of this chapter.

To give an idea of the weight that the description of the concept of conspiracy has in Chitty's work, out of the approximate 55 pages that the chapter on conspiracy has, the preliminary note is only 7 pages long, the rest being a collection of indictments of conspiracy transcribed verbatim. Furthermore, out of those 7 pages of the preliminary note, only four are a description of the offence; the remaining pages deal with procedural issue such as the modes of prosecution, the allegations that must be in the indictment, evidence, and the punishment for the offence.

⁵⁸ *ibid.*

⁵⁹ *ibid* xiii.

⁶⁰ *ibid* xii.

As mentioned above, Chitty's main goal is to digest the law as it appears in the authorities. There is no attempt to restate the law in an abstract way with a view to create a system of rules or legal propositions. It is true that the points of law are summarized and extracted, but these are paraphrases close to the text of the sources. And, as seen earlier, the structure of the heading of conspiracy has no analytical significance, but it follows the traditional procedural arrangement of the points of law. In other words, the case law is not distilled into abstract principles and concepts, but rather summarized.

Chitty's opening description of the concept of conspiracy is Coke's definition in 3 Inst 143, mainly to make the point that the offence was confined to malicious accusations—he also refers to definitions by Hawkins, Blackstone, and Jacob's *Dictionary*. However, he recognizes that “at present day, however, the meaning of the offence is certainly far more extensive,” and is not restricted to the “plan to indict an innocent person.” Then he changes the focus of attention from those traditional definitions to “the object which may render a combination criminal.”⁶¹

This is an object-based definition of conspiracy, which can otherwise be referred to as the telic definition, where what matters is the purpose or goal of the conspiracy. So, on the one hand, we see an attempt to abstract the concept of conspiracy from the context of the administration of justice and false accusations. On the other hand, however, Chitty does not put the purpose or objective that renders a conspiracy illegal in abstract terms. Rather, he provides a typology of objects distinguishing between private purposes “whether intention to injure his property, his person, or his character,”⁶² but also other purposes “not confined to an immediate wrong to particular individuals; it may be to injure public trade, to affect public health, to violate public policy, to insult public justice, or to do any act in itself illegal.”⁶³

Nevertheless, he admits that there are other cases that are not objective-based but conspiracy-based, where it is the conspiracy that makes the object illegal rather than the other way round or—as he puts it— “there are many cases in which the act itself would be not cognizable by law if done by

61 Joseph Chitty, *A Practical Treatise on the Criminal Law: Comprising the Practice, Pleadings, and Evidence ...*, vol 3 (Published by Edward Earle, Corner of Fourth and Library Streets William Brown, Printer 1819) 1138.

62 *ibid* 1139; citing here Hawkins' proposition about confederacies at common law in 2 Hawk PC c 72 s 2.

63 *ibid*.

a single person, which becomes the subject of indictment when effected by several with a joint design.” Examples of these were “workmen refusing to proceed unless they receive an advantage of wages... [or] several previously agree[d] to condemn a play or hiss an actor... [or] an agreement between private individuals to support each other in all undertakings unlawful or otherwise (P. C.) ... [or] a combination between offices in the service of the East India Company to resign.”⁶⁴

This new, wide principle leads Chitty to realize that “to constitute a conspiracy, it is not necessarily that the act intended should be in itself illegal or even immoral; that it should affect the public at large; or that it should be accomplished by false pretences [sic]; and though it is agreed that the gist of the offence is the union of persons, it is impossible to conceive a combination, as such, to be illegal.”⁶⁵ As such, he concludes his description of the offence by admitting that there is no all-encompassing principle of conspiracy, which in consequence “can rest... only on the individual cases decided, which depend, in general, on particular circumstances, and which are not to be extended.”⁶⁶

Up to this point, conspiracy was understood by reference to a set of remedies for the wrong of false accusations. Different remedies involved different requirements and conditions under which the wrong would be considered. It is true that Chitty separates the concept of conspiracy from false accusation. In that sense, there is a movement towards a more general and abstract understanding of the wrong as separated from procedure and from false accusations. It seems as if he is suggesting the more general proposition that combinations (this is the synonym he uses the most for *conspiracy*) are illegal at common law. Such a proposition echoes Hawkins’. The question then arises as to what an illegal combination is, or what makes a combination illegal. Chitty argues that it is the objective or purpose, but he fails to provide any explanation or rationale as to why this is so. Instead, he limits himself to providing a list of the objectives that make a combination illegal, which he later classifies in a typology: private, public, and objectives that make a combination illegal.

So, on the one hand, he shifts the focus away from remedies for false accusation to the idea that combinations for certain purposes are indictable. There is a telic understanding of the concept of conspiracy in the sense that

64 *ibid.*

65 *ibid* 1140.

66 *ibid* 1140–1.

what characterizes its criminality is the purpose. On the other hand, however, the purpose or objective is not defined in abstract terms, but by example. As he says, there is no way to understand this offence but on the basis of individual cases. This is a casuistic view of the concept; there is no attempt to provide an abstract essence of the common features to all these cases. What we have instead is a typology designed to digest the cases rather than structuring a category.

As mentioned above, Chitty made conspiracy a category of offences of its own. And in the end, this telic understanding of the offence hints towards that. Rather than refer to a specific offence, it seems that what we have is a collection of different offences that had nothing in common but that were all charged as conspiracy; hence the casuistic understanding. There is no conspiracy, but cases of conspiracy. And from a practical standpoint, what matters for the lawyer framing an indictment is that he alleged a conspiracy to do something for which there are already precedents, and that he can easily find the precedents by categorizing the purposes in certain types.

Finally, although Chitty was aware that conspiracy had expanded its scope since Coke's definition, and that it had therefore changed, his view of the law did not factor history in. Chronology did not play any organizing role, nor did he try to find what the principle of that expansion was by observing its organic development over time. Indeed, in his view of conspiracy as a collection of cases, medieval conspiracy appears as just another instance of conspiracies to injure someone. There is no narrative or even chronological connection between the cases. In that sense, all conspiracy authorities were at the same level: there was no distinction between older and newer, right, or wrong authorities.

Archbold

The practical purpose of these treatises, and the casuistic understanding of conspiracy that emerged from them can be further illustrated through another treatise that would prove to be quite popular (if unfortunate though),⁶⁷ in which Chitty's method and goals are rendered more explicit.

Archbold declared that purpose could not be more down to earth; namely, to collect "all the authorities upon the Pleas of the Crown, to be found in

⁶⁷ Simpson (n 70) 664.

text books, the books of reports, &c.”⁶⁸ The method for this compilation of materials was “to simplify... [the] subject; to reject every thing redundant or irrelevant; to compress the whole into the smallest possible compass consistent with perspicuity; and to clothe it in language, plain, simple, and unadorned.”⁶⁹ Although the original goal of digesting the entire criminal law was abandoned because “immediately upon publication of my first volume, two other works were announced upon the same subject,”⁷⁰ he decided to “select from the work I originally compiled, such part of it as related to evidence in criminal trials.. [adding] all the cases since decided, and the statutes since enacted upon the subject... [as well as] precedents of indictments and other criminal pleadings.”⁷¹ Since it was impossible “to give evidence in particular cases... without also giving... the particular indictment or pleading, the evidence was intended to support.”⁷² And he was further “obliged to... give such a summary of the law relative to pleading in criminal cases, general, as would enable the reader to frame an indictment, in cases where he might not be able to find a precedent.”⁷³

Like in Chitty, the substantive arrangement is embedded within the procedural. The work is divided in two books: the first one deals with pleading and evidence in general, and the second one with pleading and evidence in particular cases, that is to say, pleading and evidence in relation to each type of offence. The system of offence reminisces similar previous schemes. There are two major headings: offences against individuals (subdivided into offences against the property of individuals and against the persons of individuals), and offences of a public nature (subdivided into offences against the King and his Government, against public justice, against public trade, and against public police and the economy.⁷⁴ Conspiracy is given a treatment of its own, as Part 3 out of four of Book II, signaling that it is a category of offences rather than an offence.

68 John Frederick Archbold, *A Summary of The Law Relative to Pleading and Evidence in Criminal Cases : With Precedents of Indictments, &c., And The Evidence Necessary to Support Them* (Printed for R Pheney, Innet Temple Lane; S Sweet, 3, Chancery Lane; R Millikin 1822) iii.

69 *ibid* vi.

70 *ibid* iii, probably referring to Chitty's and Roscoe's.

71 *ibid* iv.

72 *ibid* v.

73 *ibid* v.

74 *ibid* vii.

As mentioned earlier, Archbold's treatise could not be more practice-oriented. He wanted to provide tools for lawyers to frame the indictments, as well as to raise and argue points of pleading and evidence. Thus, the structure of the part of conspiracy follows this procedural order. Indeed, he opens with a precedent of "indictment for a conspiracy to charge a man with a crime."⁷⁵ That he chooses to begin with a model of indictment rather than a definition is very revealing of his rather formulaic and procedural understanding of the concept of conspiracy.

Then he follows with a definition that is not a substantive one, but a casuistic typology of the purposes for which it is illegal to conspire:

A conspiracy is an agreement between two or more persons—1. falsely to charge another with a crime punishable by law, either from a malicious or vindictive motive or feeling towards the party, or for the purpose of extorting money from him; —2. wrongfully to injure or prejudice a third person, or any body of men, in any other manner; —3. to commit any offence punishable by law; —4. to do any act with intent to pervert the course of justice; —5. to effect a legal purpose, with a corrupt intent, or by improper means: —6. to which may be added, conspiracies or combinations by journeymen to raise their wages, &c.⁷⁶

As compared to Chitty's, Archbold's typology of *conspiracies* does not proceed to a further level of abstraction, but the ultimate goal is the same: to help digest and collect the case law of conspiracy by organizing it into headings. That is why, after this telic casuistic definition of the types of conspiracy, he goes on to provide a brief classification of the main cases that fall under each heading.⁷⁷ The references to the cases are not marginal but part of the body of the text.

Following the classification, he moves on to the procedural structure, first summarizing decided points of pleading as to the substance and form of the indictment, then listing decided points on evidence.⁷⁸ He then adds yet another precedent of conspiracy,⁷⁹ followed by some instructions as to how to prove this type of conspiracy.⁸⁰ Finally, as an afterthought, there is a note on the main authorities on "combinations by workmen, to enhance their wages."⁸¹

⁷⁵ *ibid* 388–90.

⁷⁶ *ibid* 390.

⁷⁷ *ibid* 390–1.

⁷⁸ *ibid* 391–2.

⁷⁹ "Indictment for a conspiracy to commit a crime," *ibid* 392.

⁸⁰ *ibid* 394.

⁸¹ *ibid*.

Concluding Remarks

We have seen what the practitioner's viewpoint on the law of conspiracy was, and the role the *Poulterers' Case* played in it. It was overall a procedural viewpoint that privileged form over substance so that wrongs were understood as a function of the proceedings that remedied them. The resulting procedural arrangement of the law was a system of remedies where substantive matters were only a secondary order subordinated to the procedural one. It is true that there were institutional treatises such as Coke's, Blackstone's, or Hawkins', which attempted a substantive arrangement of the criminal law. But below the external substantive taxonomy of offences, at the level of the description of these offences, they struggled to bury the formalistic and procedural mind that dominated their profession.

That substance was little more than some clothing for a procedural organization of the law is apparent in the next generation of scholars who picked up where the institutional treatises left off. In Chitty's and Archbold's treatises, the procedural arrangement comes forward whereas the system of substantive offences recedes to the foreground, as a second thought embedded and subordinated to that arrangement. These treatises were clearly not written for a general audience, nor even for an educated one. They made no effort to lead lawmakers in the right direction, nor were they designed for the classroom. They were books of practice: compilations of practical materials, procedurally arranged and formulaically understood. This might be a sign of what little of an impact the institutional scheme made on the profession.

The profession did not have an abstract understanding of the law as a conceptual system of rules. Their starting point was what the form of the proceedings for a given remedy was. Substantive matters were always expressed in formal terms. In criminal law, the question was not so much what the definition of an offence was as what the form of the indictment for that offence was. The lawyer wanted to know first how to frame the indictment, what they should aver and how they should aver it. This preeminence of the form is structurally embodied in Archbold's opening the section on conspiracy with a precedent of an indictment for conspiracy. It is also the reason why the lion's part of the materials compiled by Chitty are precedents of indictment. Indeed, although there was a deference to authority and no attempt to restate the law, as can be seen in their emphasis on collecting all the materials possible, the rest of digested materials mainly deal with procedural law. These

were collections of points of pleading (as to the form of the indictment) and points of evidence arranged in a suitable manner for lawyers to raise in court.

Thus, by the early modern period, the concept of conspiracy was understood mainly in procedural terms as a series of remedies for slightly different wrongs related to false accusations. That is not to say that the institutional writers were not capable of separating wrong from remedy. This is what Coke did when he contended that the writ was in affirmance of the ancient talionic punishment that it mitigated, but he did not make this the organizing principle of the chapter on conspiracy. It is also true that when the institutional writers reflected on the rationale of conspiracy, they viewed it in a more abstract light, but at the same time they tried to justify different procedures with different rationales which shows that they conceived the wrong as a function of the process.

By the nineteenth century, the concept of conspiracy was still conceived in procedural terms. However, there is no doubt that the remedial boundaries of the concept of conspiracy were breaking down. The focus of attention had shifted from the remedies connected to conspiracy, to the form of the indictment of conspiracy.

We already see this shift underway in Hawkins. The issue he opens with came down to a question as to the form of the indictment for conspiracy: can an indictment for a conspiracy without acquittal be framed as *contra formam statuti*? Or to put it in other words: was there a remedy available for false accusations without acquittal of the wronged party wronged? It is true that his reasoning was partly substantive based on the letter and the spirit as well as the rationale of the statute, but he combined it with formulaic arguments as to the form of writ of conspiracy. In the end, his conclusion was that, for lawyers to prevent their indictments from being quashed, the safest option was to ground them at common law because there was no doubt that confederacies to harm someone were highly punishable at common law. This passage has been interpreted as stating a new general substantive principle of the law of conspiracy,⁸² but all Hawkins meant was that there were precedents of indictments for such confederacies after which the case of false accusation without acquittal could be framed. In other words, instead of bringing this case against the statute as it was the usual formula required for the writ, lawyers could charge the false accusation without indictment at common law, as a confederacy. This did not mean that Hawkins had a general concept of ille-

82 Orth (n 52) 26.

gal confederacy or conspiracy in mind, but rather a series of successful indictments charging certain specific types of conspiracy. In other words, though he held that confederacies to harm someone could be punished at common law, he had no theory as to when that could happen beyond the existing precedents. These showed that some confederacies could be prosecuted, but not all such confederacies required to be punished.

Indeed, it is hard to tell whether Hawkins was referring to the same offence as the medieval one created by statute or not. After all, from a procedural point of view, these were irrelevant questions. Chitty connected the remedial conspiracy of Coke limited to false accusations to this wider one by making the latter an expansion of the former. By that he did not mean the expansion of a substantive principle, but the expansion of the remedy by indictment to conspiracies with other objectives than procuring false accusations. This is why Chitty does not explain why and how the law expanded. That is, he does not ascertain what the abstract underlying principle of this expansion was. Instead, he provides a typology of the objectives that an indictment for conspiracy could have.

This formalistic and casuistic concept of conspiracy underpins the way Hawkins, as well as Chitty and Archbold, cite the *Poulterers' Case*. It was not cited as an authority expressing a new substantive principle, but rather as an instance of one of the types of charges that could be brought in an indictment for conspiracy. For instance, Hawkins used this case to argue that a conspiracy without acquittal could be charged both against statute and the common law. In sum, according to the still dominant procedural and formalistic view of the law, the *Poulterers' Case* was a function of procedure rather than evidence of substantive law.

The Making of a Landmark Case

Trade Unions and Criminal Conspiracy

It can be said that as long as the concept of conspiracy was subordinated to procedure, and understood in casuistic and formalistic terms, its substantive boundaries remained uncertain even though there was formal certainty. The repeal of the Combination Acts in 1825 made this situation untenable and stirred a debate on the substance of the law of conspiracy.

The Combination Acts were the English government's response to the nascent journeymen associations created to offset the effects of the Industrial Revolution and the breaking down of the old guild system by controlling the price of their wages. The inevitable industrial strife between striking journeymen and their masters was appeased with special laws that outlawed these associations and their collective action on the one hand and regulated the price of wages on the other. These laws were limited to certain trades and regions. It was not until 1800 that a nationwide Combination Act was passed, banning all workers' associations and activities not sanctioned by the law.¹ However, this law made no provision for the regulation of wages and working conditions as has been formerly done, suggesting that for the first time this was considered to be regulated by private agreement between contracting parties with no interference from the government.²

It is typical of traditional legal systems that they are cumulative. Legal sources often overlap. Thus, the common law conspiracy began to be used in parallel to the Combination Acts of the eighteenth century. Starting with the

1 An Act to Repeal an Act, Passed in the Last Session of Parliament, Intituled, An Act to Prevent Unlawful Combinations of Workmen 1800 (39 & 40 Geo 3 c 106).

2 Sidney Webb and Beatrice Potter Webb, *The History of Trade Unionism* (New York: Longmans, Green 1920) 65; Robert Yorke Hedges and Allan Winterbottom, *The Legal History of Trade Unionism* (Longmans, Green and Co 1930) 11–33; Edward Palmer Thompson, *The Making of the English Working Class* (IICA 1963) 497–513. Cf Mary Dorothy George, 'The Combination Laws Reconsidered' (1927) 1 *Economic History* (A Supplement to the *Economic Journal*) 214, 228; M Dorothy George, 'Revisions in Economic History. Iv. the Combination Laws' (1936) a6 *The Economic History Review* 172, 172; CR Dobson, *Masters and Journeymen: A Prehistory of Industrial Relations, 1717-1800* (Croom Helm 1980) 122.

Cambridge Journeymen Taylors' Case (1721),³ the courts developed a new remedy for a form of conspiracy that was clearly inspired by the terms of the first Combination Act.⁴ However, while the statutory remedy against journeymen associations involved a summary procedure and minor sanctions, the common law one threatened workers with the weight of criminal procedure by indictment and longer prison terms. Most prosecutions for conspiracy as applied to journeymen acting together took place at the turn of the eighteenth century.⁵

The Combination Act of 1800 was the law of the land in regard to labor relations for a quarter of a century. However, the end of the Napoleonic Wars brought about an economic depression and a reigniting of radicalism that was sadly met with the Peterloo massacre and the Six Acts. The demise of Wellington and the rise of Lord Liverpool made it possible for the liberal tandem of Francis Place and Joseph Hume to successfully campaign for the repeal of the Combination Acts. They contended that, as an extension of their individual freedom to dispose of their labor, workers should be let free to combine if it suited them. Place and Hume did not suffer such associations, but they expected that experience would teach workers the disadvantages of that strategy and the true way to beat the iron law of wages. Additionally, criminalizing them was not the best way for workers to become one day respectable enfranchised citizens. However, the repeal was truncated. After a short-lived complete repeal in 1824, the Combination Acts were repealed again in 1825. However, in contrast to the Act of 1824, the Act of 1825 did not abrogate the common law conspiracy as applied to trade unions. That made the extent to which those had been decriminalized uncertain. The relevant sections of the Act of 1825 invited contradictory interpretations. For many, the law negatively recognized the right to organize and act collectively; for others, it had merely carved a few exceptions out for workers to coordinate while keeping trade unions illegal. It was clear that the deliberately vague language of the 1825 Act left the courts with the task of determining its scope. Most impor-

3 *The King against Journeymen-Taylors of Cambridge* (1721) 8 Mod 10, 88 ER 1378.

4 An Act for Regulating the Journeymen Taylors Within the Weekly Bills of Mortality 1721 (7 Geo 1 st 2 c 13).

5 Dobson (n 147) 154–170; both Archbold and Chitty classified the combinations by journeymen to raise their wages as one of the types of purposes for which conspiracy could be applied. This shows that it was treated as settled law by these authors who were afraid to foray into contended points Archbold (n 132) 390; Chitty (n 125) 1139.

tantly for our purposes, this task involved the problem of ascertaining the uncertain boundaries of the law of conspiracy so as to punish workers when they stepped over them.⁶

Although for the first two decades after the repeal of the Combination Acts the courts did not antagonize those who interpreted the Act of 1825 as giving workers the right to act collectively, by the 1850s, the courts began to embrace a more restrictive view that called for the prosecution of strikes as conspiracies at common law.⁷ There was even a new theory that conspiracies in restraint of trade had always been illegal at common law as going against freedom of trade, and that the Act of 1850, far from legalizing trade unions, had merely excepted certain conspiracies in restraint of trade from criminal prosecution.⁸

Determining the scope and nature of the law of conspiracy as applied to trade unions became a pivotal issue in the debate about the status of organized labor. Many questioned what the courts had declared to be the common law of conspiracy as applied to trade unions and wondered if the authorities they cited in support of their view were sound. This inspired Francis D. Longe to attempt to ascertain “the law which seems to be best supported” in a brief tract on the law of strikes, while admitting that “it would be impossible to give a simple exposition of the law which at present governs Trades’ unions and their practices.”⁹ For that purpose, he announced “to bring before my readers some of the principal statutes, cases, and other authorities relative

6 Graham Wallas, *The Life of Francis Place, [1771-1854]* (Alfred A. Knopf 1919) 197–240; Webb and Webb (n 178) 96–112; George, ‘The Combination Laws Reconsidered’ (n 178) 228; Thompson (n 178) 513–521; IJ Prothero, *Artisans and Politics in Early Nineteenth-Century London: John Gast and His Times* (Methuen 1979) 172–182; Orth (n 74) 68–92; Ronald K Huch and Paul R Ziegler, *Joseph Hume: The People’s M. P.* (American Philosophical Society 1985) 34–44; For an economist’s approach see William D Grampp, ‘The Economists and the Combination Laws’ (1979) 93 *The Quarterly Journal of Economics* 501. The Acts referred to were: An Act to Repeal the Laws Relative to the Combination of Workmen; and for other Purposes Therein Mentioned 1824 (5 Geo 4 c 95); An Act to Repeal the Laws Relating to the Combination of Workmen, and to Make Other Provisions in Lieu Thereof 1825 (6 Geo 4 c 129).

7 Orth (n 52) 92–98; Lobban, ‘Strikers and the Law, 1825–51’ (n 55) 228–233; MC Curthoys, *Governments, Labour, and The Law in Mid-Victorian Britain: The Trade Union Legislation of The 1870s* (Clarendon Press ; Oxford University Press 2004) 15–44.

8 Orth (n 52) 99–106.

9 Francis Davy Longe, *An Inquiry Into the Law of ‘Strikes’* (Macmillan and Co 1860) 3.

to the law of the subject, which appears at the present time to be involved in much uncertainty,” arising mainly “from the vague doctrines which have long prevailed with regard to the law of conspiracy.”¹⁰

Compared with the practitioner’s book, this was a new kind of treatise. It was conceived as a monograph that constituted, at the same time that it focused on, a new branch of the law: the law of strikes. Conspiracy appeared now as a part of this branch rather than as an independent type of offence. The method of this new type of treatise did not consist in merely digesting the cumulative case law anymore, but in answering the question as to whether strikes and lockouts were indictable conspiracies at common law, with no reference to statutory law.¹¹ That is why the treatise was conceived as an inquiry. And the purpose of that inquiry could no longer be to reproduce decided points but to find and restate the law out of the mass of authorities—albeit not yet in a systematic fashion. We can see this new method reflected in the structure of Longe’s work, where the “different views of the law of strikes and lock-outs” are stated as the findings of his inquiry in the form of a series of terse propositions at the end of the treatise.¹²

Although the scope of the treatise was narrowly defined, Longe set out to meet two wider objectives in his treatise. Firstly, he set out to find what the true principle of the law of conspiracy was, and secondly, to demonstrate that the application of this law was connected to statutorily created wrongs. The method of his inquiry was what one may describe as the historical method, which consisted in going back to the earlier relevant authorities, identifying the leading cases while disregarding the rest as useless, and trying to discover the true rules that lay behind the judges’ often confused ideas.¹³ In other words, the task of the legal scholar was no longer to collect, and catalogue decided points, but the more creative task of identifying and stating the true principle out of a few selected cases. However, this move towards scholarly law was not an overt one. These authors continued to view the law mainly as authority. That is why, instead of digesting them, they reproduced those leading cases in length, sometimes with accounts of the facts and the arguments raised in court, as well as the reasons judges gave. That also explains why the

10 *ibid* 5.

11 *ibid* 30.

12 *ibid* 47.

13 Simpson (n 70) 662, 677, 674; this is what Lobban calls the internal doctrinal history, Lobban, ‘The Varieties of Legal History’ (n 69).

law is stated in propositional form after a detailed analysis of the authorities, and as supported by them.

Longe starts his account of the law of conspiracy with a reference to the medieval statute, stating that “the definition of conspiracy was one of the earlier measures of legal reform.” This choice was clearly designed to emphasize his view that the law of conspiracy was connected to statutory law. However, he identified the *Poulterers' Case* as “the earliest account of the principle on which an indictment for what is called a conspiracy at common law is founded.”¹⁴ Thus, he not only implied a distinction between medieval and modern conspiracy, but also the idea that the common law conspiracy had a definite origin in time. Although he did not state so explicitly, it can be inferred that Longe did not conceive the common law as amounting to timeless rational principles, but rather as judge-made law.

As suggested earlier, the *Poulterers' Case* appears as a leading case standing for an abstract principle. To Longe, it revealed the true nature of the substance of the law of conspiracy as “nothing more than an agreement between two or more persons to do some unlawful act: which agreement the criminal court is empowered to punish before it is carried into execution.”¹⁵ It is true that this definition more or less paraphrased Coke's report of the case, but Longe clearly went beyond it as he inferred from that the more elaborate proposition that “an agreement between several persons so effect some object, by means of combined actions, would constitute this offence, whenever its object or effect was to prejudice the interest of other individuals or the public, although the agreement or scheme of the parties did not involve the commission of any unlawful act.”¹⁶

Once Longe had restated the true principle, he reinterpreted Hawkins as repeating “the doctrine laid down by Coke, viz. that the criminal courts can punish confederacies for unlawful purposes whether any actual injury has resulted from them or not.”¹⁷ Likewise, after analyzing the different authorities that supported what would later be known as Denman's antithesis¹⁸—namely that a conspiracy is an agreement to do an unlawful act by lawful means, or a lawful act by unlawful means—Longe concluded that, “as the words *lawful*

¹⁴ Longe (n 154) 35.

¹⁵ *ibid* 35–36.

¹⁶ *ibid* 36.

¹⁷ *ibid*.

¹⁸ *ibid* 36–8; emphasis mine.

and *unlawful* can only be predicated of acts, it is clear that all these authorities establish the same doctrine with regard to the offence of conspiracy, as well as to requisites of an indictment for that offence. Some unlawful act must be either the proximate or ulterior object of every agreement or combination which constitutes an indictable conspiracy; the illegality of that act or acts being determined by the same principles which govern the separate acts of individuals.” This second thesis buttressed his view that the criminality of a common law conspiracy was dependent on statutorily created wrongs, and that there was no such proposition that “combinations were considered to be indictable offences at common law, either as tending to injure trade or on any other ground.”¹⁹ Longe interpreted that Blackstone was in keeping with this view as could be inferred from the fact that the latter “entirely omits any separate notice of conspiracy at common law, evidently regarding it as nothing more than an agreement between several persons to do some act, the illegality of which was ascertainable from those principles of law which he had already laid down.”²⁰

As part of his inquiry, Longe also spends some time disallowing the principle that, under the law of conspiracy, combinations to do something that is not unlawful independently of the combination, are illegal. This involved classifying some of the cases as wrong, either because of misinterpretations or errors. Thus, Longe tracked down the origins of that mistake to *Rex v Mawbey* (1796),²¹ and to the treatise writers who uncritically took that case as the foundation of that wider conspiracy, such as Chitty.²² Then, after closer inspection of the authorities that the court in *Mawbey* relied on, Longe concluded that, “assuming that there are decisions supporting the doctrine that it is not necessary that an indictment for conspiracy should specify the unlawful act which was the object of the conspiracy charged, such decisions would in no way authorize the doctrine, that the commission or intended commission of some unlawful acts is not essential to constitute the offence.”²³ He then added that “combination may aggravate, but cannot create illegality, unless combination is itself illegal.”²⁴

19 *ibid* 34.

20 *ibid* 38.

21 6 TR 619, 101 ER 736.

22 Longe (n 154) 39–40.

23 *ibid* 45–6.

24 *ibid* 46.

Longe wrapped up this inquiry into the authorities supporting his definition of conspiracy by classifying under three headings “all the reported cases of conspiracy” that were consistent with it and showed “what little support they give to any other definition of conspiracy.” These were “agreements to commit acts of a criminal nature as referred to an individual... agreements to commit unlawful acts which would be only the subject of a civil action if committed by an individual... the co-operation of several persons to injure another by acts which are generally harmless when committed by individuals.”²⁵

This was of course a variation on Chitty’s tripartite classification, and on Archbold’s collection of special conspiracies. Longe therefore played a transitional role between the practitioner’s view of the law of conspiracy and a more abstract understanding of it. Although he set out to show what the true substance of this offence was as evidenced by a few leading cases starting with the *Poulterers’ Case*, he ended with a casuistic typology digesting the kinds of purposes it was illegal to combine for. The two first headings could at least be related to his definition, but the third one introduced a different principle, which is that cooperation with a wrongful intent can turn an otherwise lawful activity into a crime. In other words, cooperation may be the crime in certain situations provided that there was a wrongful mind.

However, this tripartite classification was not merely an arranging scheme for the case law. These headings referred back to the problem of how the common law conspiracy interacted with the Act of 1825. After considering several possible interpretations, Longe found greater support for the principle that “if no violence or personal injury of any kind is used or threatened, if no contract is broken, no injury is committed, no statute is violated, and the law cannot interfere.”²⁶ This principle conflated all the different specific purposes of the tripartite classification and at the same time turned the definition Longe had provided for conspiracy into a narrower and more concrete rule that spelled out the circumstances under which trade unions could be prosecuted.

Longe was the first treatise writer to go over the precedents of conspiracy in search of an abstract definition. He also was the first to single out the *Poulterers’ Case* as the leading case from which modern conspiracy emerged. As a side note, this implied that there was a modern and a medieval conspiracy, and that they were different offences. Whereas writers such as Chitty or Archbold tended to place all authorities pertaining to conspiracy at the same

²⁵ *ibid* 47.

²⁶ *ibid* 48.

atemporal level, and Coke believed that the law of conspiracy was an expression of the time immemorial common law, for the first time, history seemed to imply a substantive distinction. With the *Poulterers' Case*, the law of conspiracy had not merely expanded its scope, but further bifurcated from the medieval statutory offence. We also should keep sight of the fact that Longe did not deal with conspiracy in general but in relation to the question as to whether trade unions were illegal at common law, independently of statutory law. His definition, in sum, was designed to answer that question in a certain way.

An Opportunity for Codification

The enfranchisement of part of the working classes in 1867, and the arrival of a new Liberal government that relied on this new constituency for their victory, made it a possibility to pass legislation favoring organized labor.²⁷ However, the legislation that emerged was tainted with the traditional criminalistic approach. Workers' ability to form trade unions and to strike to obtain better working conditions depended on the repeal of the crime of conspiracy along with the penal clauses of the Master and Servants Act of 1823 (4 Geo 4 c 34) and the Act of 1825.²⁸ However, Parliament was not ready to dispose of this offence altogether. Although the Act of 1825 was replaced with the Trade Union Act 1871 (34 & 35 Vict c 31) that disallowed the prosecution of combinations of workmen "by reason merely that they are in restraint of trade" (section 2),²⁹ the subsequent Criminal Law Amendment Act 1871 (CLAA) confirmed prosecution under the common law conspiracy, restricting it to "acts herein-before specified in this section, and... done with the object of coercing" (section 1). Characteristically, the CLAA did not abstractly define conspiracy but specifically listed the conducts it was illegal for workers to combine for—which could be prosecuted either as individual offences or as conspiracies: namely, to threaten or intimidate, to molest or obstruct, or to use violence against person or property (section 1).

The passing of the CLAA had the effect of drawing working classes' attention and energies to this particular issue. The sentiment among them was that

²⁷ Most labor leaders belonged to or supported the Liberal Party, George Howell, *Labour Legislation, Labour Movements, and Labour Leaders* (T Fisher Unwin 1902).

²⁸ *ibid* 229.

²⁹ See also Orth (n 52) 135–8.

the rights recognized by the Trade Union Act 1871 had been curtailed through the revolving door of the CLAA.³⁰ Initially, labor leaders were cautious and tried simply to amend the CLAA, enlisting R. S. Wright—a radical lawyer and sympathizer of the labor cause—to draft the Bill to Amend the CLAA.³¹ However, the bill failed. The mood turned sour and the movement for the repeal of all laws criminalizing trade unions' activities began to coalesce.

The crystalizing event did not take long to happen. Prosecutions under the CLAA were conducted immediately after its enactment. And there was one case that captivated the public and enraged organized labor. A strike of the London stokers that threatened to submerge the city into darkness showed that the pesky issue of the scope of the law of conspiracy in relation to workers' combinations was far from settled.

The strikers were prosecuted under the CLAA for “conspiring to interfere with the free will of the gas company in the management of its business by the use of improper threats and molestation,” and for “conspiring to commit an offence under the Master and Servant Act by breaking their contracts.”³² At trial, the judge instructed the jury that there were two offences involved. The first one “was an agreement among the defendants by improper molestation to control the will of the employers... an illegal conspiracy at common law... an offence [that] is not abrogated by the Criminal Law Amendment Act.”³³ The other was “an agreement or combination to prevent the company carrying on their business according to their own will, by means of a simultaneous refusal of the men to carry out their contract.”³⁴ The jury convicted the defendants on the latter and recommended mercy. But the conspiracy conviction allowed the court to impose a longer term of imprisonment than the one provided for an individual breach of contract under the Master and Servant Act,³⁵ which they did.

Although the government remitted the sentences eight months on a petition from the prisoners themselves, the conviction outraged the working classes. It was the drop that broke the camel's back after the fiasco of the bill to amend the law earlier that year.³⁶ It also brought to the fore the issue of the

30 Howell (n 172) 207–8.

31 *ibid* Howell 185, 207, 212–13, 253.

32 Curthoys (n 152) 171–2.

33 *ibid* 172.

34 Howell (n 172) 224.

35 Curthoys (n 152) 172.

36 Howell (n 172) 237.

common law conspiracy. Since the London stokers had not been convicted on a new type of conspiracy hinted by Brett J, it was not possible to challenge it on appeal. There was great concern that the wide proposition advanced by the court could be cast so as to criminalize any combination of workers to obtain from their employers what these “might not be ready to grant of their own free will.”³⁷

The Parliamentary Committee (PC) of the Trade Union Congress (TUC) attempted to bring before Parliament the issue of the soundness of this new doctrine. On December 23 and 28, arrangements were made by them to meet with Home Secretary Bruce to discuss whether the judge’s propositions were “a correct exposition of the common law of conspiracy,” as well as to discuss what the spirit of the conspiracy provisions of the TUA and the CLAA was.³⁸ However, Bruce was reluctant to discuss a law court’s judgment in Parliament before it had been tested. The only issue he was willing to debate about in Parliament was that of whether to keep or repeal the CLAA,³⁹ but he essentially left “the legality of the sentence unquestioned.”⁴⁰

In response, the PC of the TUC decided to oppose every candidate for Parliament in the next elections “who would not pledge himself to vote for the abolition or alteration of any law affecting injuriously the character and freedom of trade unions.”⁴¹ It also raised funds to repeal the “penal laws against the working classes.” By these penal laws they meant the CLAA, the Master and Servant Act, but they also intended the “amendment of the laws of conspiracy as would prevent their being used as engines of torture and punishment in labour disputes.”⁴² The Home Office, in turn, reacted to this move by querying government law officers whether the law of conspiracy as a whole should be “retained, amended or abolished.”⁴³ The scope of that query was broader than the issue of the application of the law of conspiracy to trade unions. What was it that made the government focus on the entire law of conspiracy? James Fitzjames Stephen’s opportunism might have had something to do with it. On December 24, just a few days after the decision, he published

³⁷ *ibid* 244.

³⁸ *ibid* 245–6.

³⁹ *ibid* 246–7.

⁴⁰ *ibid* 249.

⁴¹ *ibid* 234.

⁴² *ibid* 285.

⁴³ Curthoys (n 152) 177.

an article commenting on Brett J's argument in the *Pall Mall Gazette*.⁴⁴

James Fitzjames Stephen had recently arrived in England after spending two years as a Legal Member of the Viceroy's Council in India. He left as a journalist and lawyer and returned as a professional lawmaker. He had contributed major legislative pieces in India such as the Contract Act, the Evidence Act and the Code of Criminal Procedure.⁴⁵ On his arrival in May 1872,⁴⁶ he was poised to persuade his fellow countrymen; as early as November, he gave a speech before the Social Science Association on what the Indian experience meant for the prospects of codification in England.

The idea of digesting and consolidating the entire law of England was not new. It went back to Bacon.⁴⁷ However, modern codification had had to wait for Bentham, who inspired a movement that was very close to achieving the first code in the 1830s, and then again in the 1850s. However, in the end it did not bear any fruit other than consolidated statutes.⁴⁸ The codification of the law in India had started around the same time, and by the time Stephen came back to England he could declare the task completed. The question presented itself: why had codification stalled in England? On that occasion, Stephen provided some answers and in doing so, he also sought to show that the codification of the law was not only possible, but also desirable. There were winds of reform beginning to blow in England, and people like Stephen were bringing strong gusts from India.

What the colonial experience had taught Stephen was the kind of role that the code could play in a modern society. Stephen was the last English Utilitarian who had been sent to India on a civilizing mission on behalf of the British Empire.⁴⁹ Thus, it is clear that his firsthand experience in state and institution-building as the means for bringing civilization to India provided him with a model on how to overhaul and modernize public governance in the

44 *ibid.*

45 KJM Smith, *James Fitzjames Stephen: Portrait of a Victorian Rationalist* (Cambridge University Press 1988) 123–135.

46 Leslie Stephen, *The Life of Sir James Fitzjames Stephen* (G P Putnam's Sons; Smith, Elder, & Co 1895) 299.

47 Courtenay Ilbert, *Legislative Methods and Forms* (Clarendon Press ; Oxford University Press 1901) 45–6.

48 *ibid* 51–67, 127–9; AH Manchester, 'Simplifying the Sources of the Law: An Essay in Law Reform' [1973] 2 *Anglo-American Law Review* 395; Lobban, *The Common Law and English Jurisprudence, 1760–1850* (n 66) 185–222; Cornish and others (n 48) 187–205.

49 See Eric Stokes, *The English Utilitarians and India* (Oxford University Press 1959).

metropolis. And the main conclusion he had drawn from his time in India was that that a modern state worthy of its name could not operate but on the rule of law. Thus, Stephen envisioned codification of the law as part of the process of state-building. That is why he used engineering metaphors to refer to it as “a great undertaking... [not unlike] draining London, or building new Houses of Parliament, or new courts of law, or constructing a system of railroads.”⁵⁰ This latter simile also helped Stephen explain his Benthamite commitment to a constantly revised code because “to suppose that any code will go on by itself for ever is like supposing that a railway can be built which will not want repairs.”⁵¹

For Stephen, the rule of law meant above all formal rule. The debate on whether discretionary rule was better suited for imperial administration than the rule of law was based on a false assumption because “the best ruler cannot govern without law.”⁵² It was indeed the rule of law that made it possible for empires to play their roles as peacekeepers. Thus, the quelling of the Indian rebellion proved “to demonstration, not that law can be dispensed with in government, but that clear, short, and simple laws are absolutely indispensable to a vigorous form of government which is to produce lasting effects.”⁵³ In other words, it was the rule of law that made possible a modern efficient bureaucratic state based on formal rather than on discretionary decision-making.

The way codification made that *vigorous form of government* possible was by putting the law at the educated person’s fingertips while dispensing with the need for that unsolicited legal profession that had kept the law “into a shape which can only be described as studiously repulsive.”⁵⁴ Like Bentham, Stephen believed that there could be no rule of law without a knowledge of the law by the educated; that is, the people who would staff the government and the members of civil society who would operate under the protection of the law. Bureaucrats on the one end of the modern state, and citizens exercising their rights on the other had to have a knowledge of the rules for there to be a rule of law. Thus, for a code to become a tool for government it

50 James Fitzjames Stephen, ‘Codification in India and England’ (1872) 18 *The Fortnightly Review* 644, 661.

51 *ibid* 668; the railroad metaphor also recalls the making of a national community.

52 *ibid* 649; See also Smith (n 190) 132–4.

53 Stephen, ‘Codification in India and England’ (n 195) 659.

54 *ibid* 659–660.

had to be a popular code. Stephen conceived the code not as a professional or technical instrument, but as a form of literature that could be used and learned by educated men. In other words, a code was also a handbook for bureaucrats such as “a military officer [who] upon certain matters connected with habitual criminals... pulled out a little Code of Criminal Procedure bound like a memorandum-book, turned up the precise section which related to the matter in hand, and pointed out the way in which it worked with perfect precision,”⁵⁵ or such as “a large number of unprofessional judges, who understand it with perfect ease, and administer it with conspicuous success.”⁵⁶ And it was also the handbook for men of affairs, which “would enable every merchant in England to know where he was [in legal matters]... without asking his lawyers.”⁵⁷

So, in this piece, Stephen conceived the code as a handbook. Of course, a handbook is not merely a literary form, but also the kind of knowledge it gives expression to. Because a handbook is supposed to contain the knowledge it describes, as opposed to collect unstructured information. It is the kind of knowledge that is capable to be expressed formally in written fashion. In other words, it is a form of declarative knowledge as opposed to the tacit knowledge that cannot be verbalized. This tacit knowledge is the know-how that the expert or the professional acquires after years practicing something. It is the kind of unfathomable knowledge involved in a skill or ability that one is rarely aware of, and that can hardly be put into a set of propositions. This tacit knowledge was the kind of knowledge the professional lawyer had at the time and which the practitioner’s treatise presupposed but did not make explicit. After all, these treatises were but reference works for lawyers to find “the right book in a library” in which to locate the relevant materials rather than an expression of legal knowledge or attempts to formalize a legal science.⁵⁸

Tacit knowledge, therefore, cannot be written in books; it is hard for the person holding it to consciously access it. In that sense, this knowledge is private, although it might be similar among a community that shares practices. For that reason, it can only be learned by inserting oneself in that community, as it is put into action in the doings of the community, but not from the outside. By contrast, declarative knowledge by its very nature can be externalized

55 *ibid* 659–60.

56 *ibid* 654.

57 *ibid* 662.

58 *ibid* 659.

and put into writing. It is not internal private knowledge, but external public knowledge, and, as such, the kind of knowledge that can be put in a handbook.

Such a handbook, therefore, is a book anybody can learn from. It offers an external way of acquiring knowledge and liberating it from professional apprenticeship. This is the kind of knowledge that any educated citizen can acquire independently or in a formal setting, such as a university, by rote learning. This is what Stephen had learned in India, where thanks to codification, the law “is studied both by the English and by the native students in the universities. The knowledge which every civilian you meet in India has of the Penal Code and the two Procedure Code is perfectly surprising to an English lawyer... [they] know the Penal Code by heart, and talk about the minutest details of its provisions with keen interest. I have been repeatedly informed that law is the subject with which native students delight in at the universities, and that the influence, as mere instrument of education, of the codifying Acts, can hardly be exaggerated.”⁵⁹ Thus, as Stephen put it, whereas a handbook enabled “any intelligent person... [to] get a very distinct and correct notion of Indian criminal law in a few hours from the Penal Code. I appeal you to imagine the state of mind of a man who should try to read straight through the very best of English books on criminal law.”⁶⁰

Therefore, Stephen conceived the code as a sort of citizens’ catechism, giving expression to a declarative knowledge that could be acquired as a whole through memorization by anyone. In Stephen’s code, the law “is drawn up in a form which every one can read and understand, and is circulated through the whole country, as we circulate the Bible. The Catechism, the Ten Commandments, and the Creeds, are instances of the same thing. Every child in the land learns them by heart.” For Stephen, all of “these [were] but cases of codification?” that is, an attempt to “popularize a knowledge of the law.”⁶¹ In other words, they represented attempts to reduce the law to a form of declarative knowledge that could be expressed in a handbook, “thrown into such a shape as to render the operation of getting it easy and interesting.” Such a code understood as a handbook will show the “English people... that the law

⁵⁹ *ibid*; Stephen’s opinion was no doubt informed by his own personal experience in the codifying commission where he saw lay civilians talking confidently about the law, Smith (n 190) 131.

⁶⁰ Stephen, ‘Codification in India and England’ (n 195) 654.

⁶¹ *ibid* 661.

is really one of the most interesting instructive studies in the world.”⁶²

It follows that the main goal of codification should be above all to make the law accessible and learnable to the educated man. As Stephen put it “when the law is divested of all technicalities, stated in simple and natural language, and so arranged as to show the natural relation of different parts of the subject, it becomes not merely intelligible, but deeply interesting to educated men practically conversant with the subject-matter to which it relates.”⁶³ These educated men, rather than legal practitioners, were the intended audience of his *General View*,⁶⁴ written in a discursive and readable fashion, with references to authorities kept to a minimum. The kind of educated reader Stephen had in mind should not escape us. He had his friend and fellow Benthamite, John Stuart Mill, tell him whether there was philosophical potential transpiring from that book, and also asked him to review his legislative drafts.⁶⁵

Therefore, a code for Stephen was an exposition “of the whole law, whether derived from statutes, text writers, or decided cases... stated in such a shape that, with the necessary amount of sustained industry, any one might acquaint himself with it.”⁶⁶ Since the main obstacle for the law to become accessible to every educated person was its current “shape which can only be described as studiously repulsive,” codification necessarily involved stripping the common law of its mystery so that the “English people... [would see] that law is really one of the most interesting and instructive studies in the world.”⁶⁷

To codify involved above all putting the unwritten common law into “a distinct written form,”⁶⁸ which would be “for the first time reduced to writing in an authoritative manner.”⁶⁹ It “is when a law is... written down... in an authoritative way” instead of relying on “a mere unwritten tradition.”⁷⁰ Therefore, as a method, codification consisted in transforming the shapeless common law into written rules. In other words, Stephen understood codification as what we would today refer to as restating the common law.

62 *ibid* 660.

63 *ibid* 656.

64 James Fitzjames Stephen, *A General View of the Criminal Law of England* (Macmillan and Co 1863).

65 Smith (n 190) 160.

66 Stephen, ‘Codification in India and England’ (n 195) 661.

67 *ibid* 659–60.

68 *ibid* 650.

69 *ibid* 657.

70 *ibid* 671.

How do we go about transforming the unwritten common law into rules? As a preliminary stage it would be desirable to compile “all of the cases”⁷¹ scattered all over the case law and summarize them in a “general digest of the law.” Nevertheless, this stage, “before proceeding to a code,” could be easily skipped instead of a “digest of the law, made at the public expense, [that] would take years to plan and execute,” existing treatises such as Roscoe’s or Archbold’s—in criminal law—where used.⁷² But after compiling and perhaps arranging disperse materials, “chaos” must be reduced to “cosmos.”⁷³

First, rules must be ascertained from the mass of materials that were collected in those digests. That is, those “avowedly crude productions” ought to be replaced by a “definite authoritative statement of the law in the form of “clear, short, and simple laws.”⁷⁴ The law must be distilled by “reducing the materials to the forms of propositions” that are more intelligible and shorter” than the compilations of cases and decided points found in digests of law.⁷⁵ By propositions, Stephen meant abstract and general definitions where “the real gist of the law must be reduced to a perfectly plain, straight forward shape,”⁷⁶ such as the restatement he gave of the concept of homicide embracing the two traditional species of murder and manslaughter.⁷⁷ Furthermore, these propositions of law must be expressed in language “perfectly intelligible to any one who can read English,”⁷⁸ that is, “divested of all technicalities, stated in simple and natural language.”⁷⁹

This process of distilling principles out of the materials and putting them in short terse propositions resulted in a simplification of the law. As an example, Stephen remarked how the cumbersome law of homicide was reduced “in length from 232 pages to seven or less.”⁸⁰ Simplification therefore involved doing away with all those “masses of law which are found in statutes and text books, the amount of which any one, even a lawyer, need practically concern himself is comparatively small.” That information “any lawyer can wish to

71 *ibid* 666.

72 *ibid* 668.

73 *ibid* 654.

74 *ibid* 649.

75 *ibid* 671.

76 *ibid* 665.

77 *ibid* 671–2.

78 *ibid* 664; see also 661.

79 *ibid* 656.

80 *ibid* 664.

know [no] more than the fact of their existence... [rather than] burden his memory with [them].”⁸¹

Likewise, the reduction of the law to simple rules could not be achieved without clarifying it and thus “settling a variety of moot points, which might at any moment produce great confusion if they should occur in practice.”⁸² However, Stephen warns that although clarification of the law may entail “modifying it in certain particulars,”⁸³ it must be born in mind that “in codification the object is not so much to alter the law as to give it its equivalent in an improved shape.”⁸⁴ Codification did not mean changing the substance of the law, but only its form.

Lastly, since a code must comprise “the whole law”⁸⁵ and be complete so that “every act of human life may be brought within one or other of its clauses,”⁸⁶ it follows that the rules must be organized into “the most important branches of the law.”⁸⁷ Then, each of these legal branches⁸⁸ should be organized as a rational taxonomy/partonomy that represents the formal structure of the types of rules within that branch, that is, “the natural relation of different parts of the subject.” However, Stephen did not mean this as an axiomatic system of “connected propositions which would constitute such an exposition of the science as Euclid gives of the elements of geometry.”⁸⁹ There is no logical inclusion of the rules. It is not a closed system where all the rules derive from a set of axioms, a vocabulary, and rules of transformation. What Stephen meant rather was coherence, so that each constituent part would be related to the whole and to other parts.

It follows that Stephen was agnostic about the epistemological status of the law as a science. As mentioned above, he did not consider the law a form of axiomatic knowledge derived from self-evident propositions and defini-

81 *ibid* 660.

82 *ibid* 664.

83 *ibid*.

84 *ibid* 667.

85 *ibid* 650.

86 *ibid* 654.

87 *ibid* 650; although Stephen conceived the rules such organized as comprehensive, he by no means considered the code complete and shared Bentham’s view that “constant enactment would be necessary to make them really complete, and no rational advocate of codification would say more than codification is a step in advance,” 668.

88 “Private relations of life... succession to property... crime...” *ibid* 661.

89 *ibid* 650.

tions. He actually complained that “the minds of many persons who write upon the subject appears to me to be haunted by an impression that law is a science inherent in the nature of things, and quite distinct from actual laws, and that to codify the law is to draw a connected system of propositions which would constitute such an exposition of the science as Euclid gives of the elements of geometry.” Instead, he argued for “a truer and more practical view of the matter—if we think about the actual laws, and not about abstract law, and if we regard these laws as systems of rules drawn for practical purpose by the light of common experience.”⁹⁰

Law as a science was not a knowledge of *abstract law*, but of *actual law*. Stephen had a practical view as to the epistemological status of the rules of the code. The common law consisted of practical rules addressing concrete problems and developed over time. He had a very down to earth view of legal science. An exposition of the whole law as rules classified in headings was nothing but “a working kernel of the law stated in such a shape,” so that they could be easily learned.⁹¹ What was important was not whether legal rules expressed ultimate truths or not, but rather, whether they could be used to solve practical problems by citizens and rulers. Law was not reason, as the new breed of treatise writers who tried to speak some truth about the law pretended, but rather distilled experience. Thus, the goal of legal science was also a practical one. The code simply restated the unwritten common law in a way that was accessible to the educated citizen, that is to say, in a form that could be easily taught and used. That is why he compared the code to a catechism.

Summing up, legal science organizes and expresses the law in a manageable way but does not say a word about the epistemological value of legal propositions. Or to use the well-known Utilitarian expression, legal science describes the law as it is, rather than prescribing the law as it ought to be according to some axiomatic system of ultimate moral truths.

This meant that in contrast to Bentham’s view, and to Macaulay’s eclectic approach, Stephen did not advocate for codification *ex novo*.⁹² Codification was a hands-on kind of activity that entailed working on existing materials. The main task was not advancing or promoting utility but making the common law accessible and intelligible. And since “in codification the object is not

⁹⁰ *ibid* 660.

⁹¹ *ibid* 661.

⁹² Smith (n 190) 132–3.

so much to alter the law as to give its equivalent in an improved shape,"⁹³ there was no need for parliamentary debate.

Conceiving codification as restatement law was part of Stephen's strategy to make it successful. What the Indian experience had shown was that codification by "a small commission charged with the duty of drawing the Bills referred to,"⁹⁴ meeting regularly and working through the different drafts and revisions "is out of all comparison more searching and effective than a discussion by speeches in a popular assembly can possibly be."⁹⁵ The role of the assembly, as mentioned above, was to support legislation. It was true that codification "would occupy many years, and would cost a considerable amount of money,"⁹⁶ but working in this fashion there was "no reason why the subjects of crime, contracts, wrong, and procedure, civil and criminal, including evidence and the law of limitation and prescription, should not be undertaken at once, and completed in a few years."⁹⁷ Of course, the secret sauce of this process of codification was that "each bill ought to be drawn by a single person,"⁹⁸ that is "a single draftsman, who had nothing else to do, [who] might draw the Acts faster than Parliament would be prepared to discuss them."⁹⁹

Stephen's private codifier was not necessarily a lawyer.¹⁰⁰ They could be people "of the highest eminence," such as the Indian codifiers Macaulay, J. M. Leod, or Millet.¹⁰¹ But they could also be someone who professed to be a writer. Stephen's concept of literature was broader than ours. It was not limited to fiction, and it was not intended to entertain only. Nor was it circumscribed to a specific medium. Literature for Stephen also embraced the general knowledge that circulated in bounded books as well as magazines and newspapers. It represented the kind of knowledge that the educated class would find interesting and worth learning. In other words, Stephen's concept of literature was connected to an ideal of self-cultivation and perfection. That is why he

93 Stephen, 'Codification in India and England' (n 195) 667.

94 *ibid* 665.

95 *ibid* 666.

96 *ibid* 661.

97 *ibid* 662.

98 *ibid* 665.

99 *ibid* 662.

100 See also James Fitzjames Stephen, 'Improvement of the Law by Private Enterprise' (1877) 2 198.

101 Stephen, 'Codification in India and England' (n 195) 651.

enthused about how Indian newspapers discussed legislation in such a way that “proved that the writers must have studied it as any other literary work of interest must be studied.”¹⁰² Legal knowledge was just another form of general knowledge that a “very educated man might possess a considerable amount of.”¹⁰³

A professional writer’s occupation encompassed both the wider sense of a thinker or what we nowadays call a scholar, as well as “skilled labor” that produced *stuff*. Following Bentham’s footsteps, Stephen conceived the lawmaker as a professional writer. That is why the code was to be an author’s code. Drafting a code involved the kind of draftsmanship required in any other work of art: “each bill ought to be drawn by a single person for the same reason for which a picture out to be painted by a single person; for an Act worthy to be called a code is distinctly a work of art.”¹⁰⁴ Indeed, Stephen confessed that “no man who is fit to draw a code will do it merely as the unrecognized servant to some politician who is to get all the credit for it.”¹⁰⁵ Of course, this translated into a process of codification where “the draftsman is, to a very great extent indeed, the important person... let the author of the code be its author. Let the member of Parliament be what he really is, the advocate who pleads its cause.”¹⁰⁶ In this conclusion he also drew on the successful Indian experience to explain this reversion of roles. It had revealed that parliamentary codification could not work. The reason why codification had not stalled in India like in England, was precisely because there, the process was a technical one, not subject to political interests and partisanship, and the role of Parliament had been to acquiesce to what a smaller commission had said, based on the work of a private codifier.

Stephen’s concept of codification had many ramifications for the concept of the common law. For one thing, it was seen as shapeless unwritten law. The common law might have started as “not written at all in an authoritative way... a mere unwritten tradition,” only to be defined by text writers and decided cases.” This is a form of law in which the rules are in flux. They are merely hinted at, if clumsily, in the case law, but they have no definite fixed formulation. It was only with the code that “the principles of the text writ-

102 *ibid* 559.

103 *ibid* 660.

104 *ibid* 665.

105 *ibid* 677.

106 *ibid* 667.

ers and the result of the decided cases is reduced to a set of propositions.”¹⁰⁷ Therefore, the common law appears as a body of rules that must be put into writing rather than a remedial system or a way of finding rules to reason in a given case.¹⁰⁸ As such, it follows his view of legal science as pursuing the practical goal of making the law accessible and understandable for the layman.

It is true that Stephen’s conceived legal treatises as instrumental works distilling the common law before they became drafts submitted to a commission for review and discussion. But he was foreshadowing the rise of scholarly law in the common law tradition understood as restatement law. This was the form of the next generation of legal treatises, such as Dicey’s or Pollock’s, conceived mainly as private restatements of certain branches and areas of law. This form of scholarly law was unequivocally created with a view to persuade legislatures, but would also begin to acquire a form of law of its own, one with persuasive authority.¹⁰⁹ This form of persuasive authority rested on the author/writer/scholar. By contrast to case law, this form of the common law as scholarly law had one author and one author only. Thus, a shift was underway from the authority of a court, to the authority of the author or writer.

As mentioned above, after the fiasco of the 1850s, the prospective codification of the criminal law of England had lost momentum. Only eventual statutory consolidation had been accomplished. Stephen saw an opportunity to reignite the debate on codification by hitching his wagon to the labor issue. It was a smart move on his part. Trade unions and their practices were a hot topic, so he ensured that the issue of codification would be mentioned everywhere, bringing it to the attention of a wider audience. However, catering to this new constituency required a different selling point than that he bid the educated audience of the Social Science Association. Whereas he had emphasized accessibility of the law—from which the rule of law springs—as the main purpose of codification to that educated audience, to his labor audience he would underline instead legal certainty against judicial discretion as the durable effect of a codified law. Yet, as will be seen, far from proposing an abstract conspiracy expressed in a propositional definition as one might have expected from his understanding of codification, Stephen’s fictional theory of

¹⁰⁷ *ibid* 671.

¹⁰⁸ Lobban, *The Common Law and English Jurisprudence, 1760-1850* (n 66) 13–4, 16.

¹⁰⁹ Benjamin Nathan Cardozo, *The Growth of the Law* (Yale University Press 1924) 8–9.

the law of conspiracy perpetuated the old formulaic and formalistic understanding of conspiracy that appeared in the practitioner's treatises.

Coming back to the case of the London gas stokers, for Stephen, the proposition laid down by Brett J was indubitably consistent with the common law. Focusing on amending the law of conspiracy so as to prevent its application to trade unions was the wrong approach. The gist of his argument was as follows. First, the common law "offence of conspiracy consists in an agreement between two or more persons to do anything unlawful."¹¹⁰ Since the term *unlawful* was vague and could have "great many meanings," it "leaves so broad a discretion in the hands of the judges that it is hardly too much to say that plausible reasons may be found for declaring it to be a crime to combine to do almost anything which the judges regard as morally wrong or politically or socially dangerous." It followed that the law of conspiracy "puts into the hands of the judge... the power of deciding retrospectively that any particular purpose for which men have combined was unlawful."¹¹¹ From the point of view of this general conspiracy, it did not matter whether the CLAA exempted the application of the common law of conspiracy to trade unions on the "special ground" that they "restrain the free course of trade." The judge still kept the power to declare the "agreement of combination... to force... the company to conduct the business of the company contrary to their will by an improper threat or improper molestation" as "an illegal conspiracy on general grounds."¹¹² In other words, under general conspiracy, combinations could continue to be made illegal "unless they are brought within the words of the statutory exceptions which had been made in their favor."¹¹³ Thus, the amendment strategy was "like trying to scoop a hole in quicksand," and it would not "do any good till the whole common law of conspiracy is swept away and a rational definition of the crime is substituted for the present vague allusions."¹¹⁴

110 James Fitzjames Stephen, 'The Law of Conspiracy' *The Irish Law Times and Solicitor's Journal* (4 January 1873) 3 3 (reprinted from the Pall Mall Gazette); ; this was Stephen's rendition of Denman's antithesis, which he claimed was "not really an antithesis at all," since "the real definition would be a combination to do an unlawful act whether that act is or is not the final object of the combination," Stephen, *A General View of the Criminal Law of England* (n 209) 148.

111 Stephen, 'The Law of Conspiracy' (n 255) 3.

112 *ibid* 4.

113 *ibid* 3.

114 *ibid* 4.

Therefore, Stephen was shifting the focus away from the issue that concerned labor of –the narrower conspiracy in restraint of trade–towards the question of the law of conspiracy in general. Although it is not fleshed out in this article, he conceptualized conspiracy as a two-tier structure. There was general conspiracy defined widely, and there were the special conspiracies that were created by the application of the former by the courts. In other words, the general conspiracy was a device that provided legitimacy for the courts to outlaw certain conducts, creating new offences. The conspiracy in restraint of trade was just one of the special conspiracies created out of the wider one. Citing his edition of Roscoe's *Criminal Evidence*, he concluded that the conspiracies created by the courts could be classified into three headings "1. A combination to commit any crime... 2. A combination to commit a civil injury... 3. Combinations to do acts which the Courts regarded as outrages on morality and decency, or as dangerous to the public peace, or injurious to the public interest."¹¹⁵

This tripartite classification reminisces Longe's. However, there are important differences in their wording. Whereas Longe hung on to the idea of a combination to do something that would otherwise be lawful if committed by an individual as a type of conspiracy, Stephen focused on the list of purposes the courts had considered to be unlawful. To him, it was the vagueness of this term that warranted the courts' power to create new offences. Longe still thought in terms of an abstract substantive concept of conspiracy, but Stephen gave up on the idea that there was any meaningful concept of conspiracy. It was just a means for courts to legislate; a fiction. In that sense, Stephen's view was closer to the casuistic understanding of Chitty. However, in contrast to the latter, Stephen provided an explanation and a justification for the list of special conspiracies: they were the result of the application of a general principle that allowed the courts to retrospectively declare illegal any given course of conduct. Thus, though his theory did not integrate the category of conspiracy, in explaining the cases of special conspiracies as a result of the general principle, he made the category more cohesive.

In an earlier work, Stephen had explained his theory about the nature of the law of conspiracy in more detail. The most important part was the principle that at common law courts could punish any act not falling under any law on the "ground of their immorality and tendency to injure the public."¹¹⁶ This

¹¹⁵ *ibid* 3.

¹¹⁶ Stephen, *A General View of the Criminal Law of England* (n 209) 62; cf later "any form of immoral, unpatriotic, disloyal, or otherwise objectionable, conduct."

was indeed “the prerogative, which in former times was distinctly claimed for the Court of King’s Bench, of being the *custos morum*.” The unexpected development was that this principle was engrafted to “a fiction so refined that it is difficult, at first sight, to see that it is a fiction.” Namely, it is the fiction of “treating as a crime, not the very acts which are intended to be punished, but certain ways of doing them.”¹¹⁷ In this case, the instance of this kind of fiction was that “a crime may be committed by the agreement of several persons to do an act which, if done by a single person, would not have been criminal.”¹¹⁸

Several questions arise from this explanation. How is it that the general principle that at common law the courts are the *custodia morum* became associated to the fictitious conspiracy? And why is conspiracy, “which is one out of many possible aggravations of an act... the one by which its criminal character should be determined?”¹¹⁹ Stephen provides a historical explanation based on the medieval *Ordinacio de Conspiratoribus* 1305 (33 Edw 1). Although Stephen does not explicitly say so, it seems that he believed that statute was already fictional. Conspiracy is a merely aggravating element of the real offences targeted by the statute such as procuring false indictments. Furthermore, it appears that Stephen implies that this offence was later generalized so as “to include offences of much less importance than those which were originally contemplated,” pretty much the same way “the definition of highway robbery... is generally applied in the present day to some commonplace criminal, who pulls a few shillings out of the pocket of a drunken companion on his way home from a public-house.”¹²⁰ In other words, the fiction that conspiracy was punished in lieu of the great abuses of legal procedure was later generalized to other (minor) offences where some form of combination was involved.

What Stephen was hitting at was the undetected general principle hidden under this fiction. The principle allowed the courts to create new offences

¹¹⁷ *ibid.*

¹¹⁸ *ibid*; cf. later, “a plan concerted between two or more people” involved in the conduct considered to be immoral, etc.,” 148-9.

¹¹⁹ *ibid*; cf later “any form of immoral, unpatriotic, disloyal, or otherwise objectionable, conduct,” 149.

¹²⁰ *ibid* 63; Later, some legal historians have embraced this expansionary thesis about the development of the law of conspiracy, see Bryan (n 41) 52-8; see also Holdsworth, *A History of English Law* (n 46) 380-4; cf the same author entertaining the attempt theory of the origins of modern conspiracy, Holdsworth, *A History of English Law* (n 45) 204-5.

while the fiction excused them from any criticism as they could always argue that the crime was conspiracy not the actions of the conspirators. This trick “enables the courts, by a sort of ostracism, to punish people who make themselves dangerous or obnoxious to society at large.” For sure, he considered that this power was “dangerous and ought to be watched with jealousy,”¹²¹ but it was only when the opportunity presented itself with the *Gas Stokers’ Case*¹²² that he proposed to do away with it.

Thus, in his article on the gas stokers’ decision, Stephen wanted his audience to shift their attention away from the doctrine of the conspiracy in restraint of trade towards the real substance of the offence: the idea that the common law allowed the courts to punish whatever they consider unlawful acts, that is, immoral or against public policy. Stephen reframed the question as to the application of the offence of conspiracy to trade unions as a question as to the power of courts to create new crimes. This was, in other words, a question about the uncertainty created by judicial legislation, which was the kind of evil that codification of the law could cure. From this perspective, amending the law of conspiracy to exempt trade unions was ineffectual. The strategy would leave the courts with the power to create new offences. That is why it was like scooping a hole in quicksand.

It should be added that from Stephen’s perspective, the very existence of the general principle legitimized the court’s decisions. By contrast to the thesis of people like Longe who saw the doctrine of conspiracy as applied to trade unions as an unwarranted sleight of hand of the judges, and therefore essentially illegitimate judicial activism, Stephen thought that the common law had given the courts that power. The solution was repealing the common law of conspiracy altogether while codifying the offences created by its application. The only way to really protect trade unions was to take back the power the law gave the courts. Indeed, Stephen believed that this was but an “illustration of the importance of codifying the law.”¹²³ And he hoped that it would set “in the plainest light the interest which all classes have in the codification of the law.”¹²⁴

Summing up, in his article commenting on the decision in the *Gas Stokers’ Case*, Stephen widened the narrow issue of the amendment of the law of

121 Stephen, *A General View of the Criminal Law of England* (n 209) 149.

122 *Regina v Bunn* (1872) 12 Cox CC 316.

123 Stephen, ‘The Law of Conspiracy’ (n 255) 3.

124 Cited in Curthoys (n 152) 177–8.

conspiracy as applied to trade unions, raising the need for the codification of criminal law. His argument was based on the premise that the vagueness of the law made judicial interpretation necessary, and judicial interpretation of vague law was judicial legislation. Now, since the alleged vagueness was hidden under a fiction, the strategy of carving out exceptions to the law of conspiracy was bound to fail as long as the courts retained the power to create yet another new special conspiracy. The only solution was to revoke this power by repealing and codifying the common law conspiracy.

It is no accident that, at that time, Stephen was revising Robert Samuel Wright's draft Criminal Code for Jamaica. Wright had started working on this code in 1870 on the Colonial Office's request, and would submit it in January 1874. The Colonial Office had Wright know in January 1874 that a revision of the code was peremptory before enactment, and that the ideal person would be Stephen—they had actually told him that Stephen was being considered for revising the draft as early as November 1873. The two men had known each other at least since August 1873, when Wright had sent Stephen a copy of the draft. Stephen accepted the Colonial Office's offer in January 1874 and sent him the revision back in October of that year.¹²⁵ As we have seen, Stephen advocated for the codification of the common law and had been working on two bills on homicide and evidence between 1872 and 1874.¹²⁶ It is therefore possible that the issue that brought these two men together was the labor issue that had reemerged just after Stephen's arrival in England.

In contrast to Stephen's opportunism, Wright seemed to have a genuine interest in the labor cause. It was Wright whom the Parliamentary Committee of the Trade Unions Congress referred to for legal help to draft a bill to amend the CLAA.¹²⁷ So large was his contribution that, in a meeting of the Trade Union Congress, he was praised for being the "man in England to whom they

125 ML Friedland, 'R. S. Wright's Model Criminal Code: A Forgotten Chapter in the History of the Criminal Law' (1981) 1 *Oxford Journal of Legal Studies* 307, 312–14; Friedland also entertains the possibility that the process of revising Wright's code prompted Stephen to draw his own, 316.

126 Stephen, *The Life of Sir James Fitzjames Stephen* (n 191) 303, 305–6; AH Manchester, 'Simplifying the Sources of the Law: An Essay in Law Reform' [1973] 2 *Anglo-American Law Review* 527, 529–30.

127 The bill was introduced in Parliament for discussion on May 8, 1872, and later abandoned, Howell (n 172) 213–6; Wright also was involved in drafting bills concerning merchant shipping, arbitration, liability of employers to workmen, master and servant and the truck system, Friedland (n 270) 322 n 125.

were more indebted for the improved labour law under which they lived.”¹²⁸ When the *Gas Stokers' Case* persuaded the Trade Union Congress that repeal rather than amendment of conspiracy should be pursued, it was Wright again who drafted a Repeal Draft bill between March and April 1873.¹²⁹

Contrary to Stephen's recommendation, this bill did not repeal the law of conspiracy but only exempted “conspiring to do any act on the ground that such act restrains or tends to restrain the free course of trade” from prosecution.¹³⁰ The trade unions' allies in Parliament brought the issue for debate on June 6, 1873, announcing that “the common law of conspiracy... ought to be amended, limited, and defined.”¹³¹ Subsequently, a new bill was drafted by Wright¹³² and introduced on June 12.¹³³ The scope of the bill was still limited to “conspiracy in respect to trade combinations and disputes arising between masters and workmen.”¹³⁴ It provided that no prosecution could be instituted “for conspiracy to do any act or to cause any act to be done for the purpose of trade combinations, unless such act is an offence indictable by statute” and that no person could be punished “for conspiracy... by reason only of his being a member of or a party to a trade combination” (section 1). In other words, it linked the operation of the common law conspiracy in relation to trade unions to statutory law and rendered trade unions legal by exempting their mere existence from common law prosecution. However, after the first reading, it was urged that the bill should deal “with the general law of conspiracy.”¹³⁵ Thus, as it passed through committee and faced the third reading, the bill was amended and its scope enlarged so as to “amend, limit, and define the law relating to conspiracy.”¹³⁶ The abovementioned provisions were kept in this amended bill, but new provisions were added, reaffirming a series of

128 Friedland (n 270) 322 n 125.

129 The bill was introduced in Parliament and read on May 12, 1873, but it did not make it to a second reading, Howell (n 172) 286.

130 A Bill to Repeal the Criminal Law Amendment Act HC Bill (1871) [161] (34 & 35 Vict), s 1 (2).

131 Howell (n 172) 288.

132 *ibid* 292.

133 *ibid* 298.

134 A Bill to Amend the Law of Conspiracy as Applied to Masters and Servants HC Bill (1873) [190] (36 & 37 Vict).

135 Howell (n 172) 298.

136 *ibid*; A Bill [as amended in committee] to Amend the Law of Conspiracy HC Bill (1873) [263] (36 & 37 Vict).

statutory special conspiracies as well as the common law “conspiracy against public morals or decency, or ... any conspiracy to incite mutiny, or... any conspiracy against Government” (section 1). These changes proved to be fatal to the bill as the Lords took advantage that “the whole Law of Conspiracy” was under revision to introduce new amendments that could not be accepted by the promoters of the original bill.¹³⁷

Based on these two bills that Wright drafted, one can get a sense of what his theory on the nature of the law of conspiracy was. Although the scope was the narrow interaction of the law of conspiracy with trade unions, he also published a longer tract which, in spite of its title, dealt with the common law of conspiracy in general. The tract must have been published in April, it not earlier that year, since *The Law Journal* gave notice of the book on May 3.¹³⁸ It follows that Wright must have been working on the tract at the same time that he drafted the bills, and no doubt its publication was in keeping with other pamphlets that were published during these months to support the legislative measures trade unions and their allies in Parliament proposed.¹³⁹

On the surface, Wright’s treatise was a digest of the law of conspiracy that exhaustively collected all available materials on the matter in a single volume. However, he stopped short of merely piling up cases of conspiracy. His treatise was a perfect embodiment of what Stephen envisioned as the first step towards the codification of law. The very use of the word *inquiry* in the title of the work reveals that this was not a mere arrangement of juxtaposed points of law, but a discursive and principled attempt to ascertain the law of conspiracy. And ascertaining the law involved producing a definition. As he put it, “no intelligible definition of ‘conspiracy’ has yet been established. The object of the following sections is to collect the materials for such a definition.”¹⁴⁰ Again, as foreseen by Stephen, Wright did not merely collect the materials but also began to distill them so that a definition would take shape and emerge out of them. One may even say that in ascertaining the law of conspiracy, Wright applied Stephen’s method more accurately than Stephen himself. That is to say, at the same time that he collected and arranged the case law of conspiracy, he began to simplify and clarify the law of conspiracy

137 *ibid* 299–301.

138 ‘The Law of Conspiracy’ (1873) 8 *The Law Journal* 255, 255.

139 Howell (n 172) 305–6.

140 Robert Samuel Wright, *The Law of Criminal Conspiracies and Agreements* (London : Butterworths 1873) 11–2.

in the form of propositional rules. In that sense it was more of a proto case-book than a digest.

The structure of the treatise reveals the method—or should I say combination of methods—that Wright applies to the compiled materials. First, he arranges them in an introductory historical narrative. This narrative is planned out to settle a question of law as to the nature of the offence—whether it was a statutory or a common law offence—as well as with regard to when it had become a common law offence. He went back as far as he could in the legislative and judicial record. The answer is found by separating modern common law from medieval statutory conspiracy. In so doing, Wright was also starting to structure the case law and distinguish between leading cases and dead ends. Once he had identified the leading case of modern conspiracy, he charted its development. Although the structure was narrative, organizing the materials according to their stages of development (medieval, modern, nineteenth century), the purpose was overtly to ascertain the law from the cases rather than to provide a historical account. That is why by contrast to a traditional digest, cases appear reproduced more extensively, with reference to the facts, arguments, etc. The goal is no longer to reproduce the materials but to answer substantive matters. The historical narrative focusses on the modern concept of conspiracy, which is presented as progressively coming into shape through many decisions. And as part of this process of clarification, he begins to distinguish right from wrong cases. Indeed, it is the historical narrative that helps to set apart the wrong ones as historical accidents based on contingent misconceptions.

This extensive discussion of cases becomes more apparent in the second part where Wright focuses on a specific issue: the contention that the law of conspiracy was widely defined as in the so-called Denman's antithesis, and that the conspiracy in restraint of trade was grounded on that principle. This part aims to clarify the law by demonstrating those to be the wrong principles, and that no case can be proved to have been decided on them. If anything, Wright argues that the cases cited as authorities for the wide rule and the conspiracy in restraint of trade were decided on the principle he proposed. This was typical of this new kind of treatise that was intended to ascertain the right and probably hidden and implicit principle, sometimes over the court's own reasons.¹⁴¹

In the last part, Wright focuses on the analysis of some of the elements

141 Simpson (n 70) 674.

of the offence, as well as a short comparative digression, to finally lay down his conclusions. The conclusions come in the form of a discursive discussion of the main points that can be drawn from the previous chapter, followed by a list of short propositions. These were in fact his recommendations for the codification of the offence of conspiracy. Just as Stephen, Wright believed these digests should not only organize the case law, but also anticipate the code by providing a simplification of the law by way of general propositions.

The main conclusion Wright drew from the materials he carefully collected and scrutinized was that “the law of conspiracy is in truth merely an extension of the law of attempts, the act of agreement for the criminal purpose being substituted for an actual attempt as the overt act.”¹⁴² It followed that the law of conspiracy was “merely an auxiliary to the law which creates the crime,”¹⁴³ since “an agreement or combination is not criminal unless it be for acts or omissions (whether as ‘ends’ or as ‘means’) which could be criminal apart from the agreement.”¹⁴⁴ Therefore, it was the criminality of the object of the conspiracy that could no longer be subject to judicial discretion since it could only be declared unlawful with reference to a statute or to precedent. This conclusion relied entirely on his interpretation of what he believed the leading case in the emergence of modern conspiracy —the case in which this theory was first hinted at, even if the principle was not yet clearly formulated. This was the *Poulterers’ Case* (1611):

The modern law of conspiracy has grown out of the application to cases of conspiracy, properly so called and as defined by the 33 Edw. 1, of the early doctrine that since the gist of crime was in the intent, a criminal intent manifested by any act done in furtherance of it might be punishable, although the act did not amount in law to an actual attempt... [it was] finally settled... in 1611 (*Poulterers’ Case*), that although the crime of conspiracy properly so called, was not complete unless in case of conspiracy for maintenance some suit had been actually maintained, or in a case of conspiracy for false and malicious indictment the party against whom the conspiracy was directed had been actually indicted and acquitted... the agreement for such a conspiracy was indictable as a substantive offence, since there was a criminal intent manifested by an act done in furtherance of it, viz., by the agreement and from this time, by an easy transition, the agreement or confederacy itself for the commission of conspiracy came to be regarded as a complete act of conspiracy, although traces of the original distinction between a completed conspiracy and the mere agreement or confederacy to commit it long continued to be found... and grew into a rule

142 Wright (n 285) 38.

143 *ibid* 63.

144 *ibid* 48.

that a combination to commit or to procure the commission of any crime was criminal and might be prosecuted as a conspiracy, although the crime might have nothing to do with the crime of conspiracy properly so called.¹⁴⁵

Wright's historical explanation contains several elements. First, there is the primitive idea of subjective attempt as a criminal intent manifested in its execution. Then, according to Wright, the reasoning of the Star Chamber in the *Poulterers' Case* was based on this principle. Since there was an agreement involved, and the agreement revealed a criminal intent, then the agreement to commit a conspiracy as defined by the *Ordinacio de Conspiratoribus* 1305 (33 Edw 1) was punishable even if that offence required execution. This new principle laid down in the *Poulterers' Case* was later generalized into the idea that a conspiracy to commit any crime was punishable. However, this explanation is riddled with circularity and ambiguity due to the equivocal use of the terms *agreement*, *conspiracy*, *combination*, and *confederacy*, which are sometimes employed as synonyms, and sometimes as meaning different things each.

The *Ordinacio de Conspiratoribus* 1305 (33 Edw 1) defines *conspiracy*—or rather *conspirators*—as those who “confeder or bind themselves by Oath, Covenant, or other Alliance, that every of them shall aid and bear the other falsly and maliciously to indite, or cause to indite, or falsly to move or maintain Pleas.” The idea that these agreements to falsely indict or maintain should actually be executed is not mentioned in this statute but it is a subsequent doctrinal development. Nevertheless, this definition would suffice to punish a mere agreement without execution—as Hawkins had pointed out, and Stephen would do later. For the sake of argument, let us assume with Wright that the requirement of execution of the agreement was part of the offence. The principle that the Star Chamber was supposed to have applied was that an intent to commit a crime as defined by that statute was itself a crime. Therefore, an intent to commit a crime as defined by this statute would be an intent to agree to falsely indict or maintain, and to actually execute the agreement. But according to Wright, the agreement reveals the criminal intent. Does this mean that an agreement to falsely indict or maintain reveals the intent to agree to falsely indict or maintain and to execute the agreement? The problem is that the agreement is part of the description of the offence. If the offence were to falsely prosecute or maintain, then it would make sense to consider an agreement to so do as an action revealing a criminal intent.

¹⁴⁵ *ibid* 6; see also p. 22.

Indeed, what Wright seems to be suggesting is that since the agreement as defined by the *Ordinacio de Conspiratoribus* 1305 (33 Edw 1) implied this intent to falsely prosecute or maintain, and since this was a criminal intent, then an agreement “came to be regarded a completed act of conspiracy.”¹⁴⁶ In other words, though the description of the offence included the agreement, for Wright, the essence of the medieval offence was the object of the agreement rather than the agreement itself. Elsewhere he says that “the ancient ordinances of conspirators... *extend only* to combinations for the false and malicious promotion of indictments or suits, for embracery, or for maintenance of various kinds... the word ‘conspiracy’ was from an early date specially appropriated to *false and malicious promotion of indictments for felony*, and it was not complete unless by the procurement of the conspirators and indictment was actually found, and the person indicted was tried and acquitted.”¹⁴⁷

This passage suggests that for Wright, the essence of the medieval offence was malicious promotion of false indictments, but for some reason it had been restricted to those who acted in concert or combination. Although *combination* and *conspiracy* may be used as synonyms for agreement, Wright appears to be using *conspiracy* to mean the promotion of false indictments. This reading is confirmed when he further describes how “even before Coke’s time it had been held... that an indictment preferred by the conspirators might lie for such *combination*, although the indictment preferred by the conspirators had not been found by the grand inquest; and it was finally settled by the Poulterers’ Case in 1611 that the mere *act of combination* to commit *the crime of conspiracy* was punishable.”¹⁴⁸ The confusion arises from the fact that Wright uses *combination* in two senses. Within the context of the statute, it means acting in concert and restricts the scope of the crime that he calls *conspiracy*. But within the context of the *Poulterers’ Case*, it enlarges the scope of the crime so as to encompass not only the actual false indictment, but also the attempt to falsely indict. Therefore, *combination* means attempt.

Wright does not wonder why, if the essence of the offence was the actual abuse of criminal procedure, it was called *conspiracy* and defined as an agreement. Furthermore, if the principle that the court found in that was an interpretive one as to the statute *Ordinacio de Conspiratoribus* 1305 (33 Edw

146 *ibid.*

147 *ibid* 17–8; emphasis mine.

148 *ibid* 18; emphasis mine.

1), how did it come to be generalized to other offences? In any event, Wright's thesis implies that although medieval and modern conspiracy are historically related, they are conceptually unconnected. The medieval one has to do with abuse of procedure. Modern conspiracy was an expression of the principle that the intent to commit a crime is punishable as long as it has been revealed. Why this principle was used in the *Poulterers' Case* is not explained. Wright is only interested in the idea that that principle was first used within the narrow context of abuse of procedure, and later generalized. That an agreement was also part of the definition of conspiracy according to the *Ordinacio de Conspiratoribus* 1305 (33 Edw 1) seems to be irrelevant for Wright.

It follows from this account that there was no common law conspiracy before the *Poulterers' Case*. But in an extensive note to the historical account, Wright went further and also tried to show that there were no authorities in support of Coke's contention that the medieval statute was in affirmance of the common law.¹⁴⁹

In arguing this point, Wright was buttressing his main argument that modern conspiracy, as a cognate of attempt, was ancillary to the laws creating specific offences. After all, the tract where these ideas were expressed was published in the aftermath of the *Gas Stokers' Case* and the push to repeal the CLAA. As mentioned earlier, Wright drafted the bills amending the law of conspiracy at the same time he was working on this tract. Indeed, in his bill, the same idea was expressed in section (1) that limited the prosecution "for conspiracy to do any act or to cause any act to be done for the purposes of trade combinations, unless such act is an offence indictable by statute."¹⁵⁰ In contrast to Stephen's approach on how to deal with the issue of the application of the law of conspiracy to trade unions, Wright's principle did not deal with the issue of the codification of the criminal law of England. If his view as to the nature of modern conspiracy was adopted by the courts, there was no need to even amend the common law offence.

Wright's contention that conspiracy was a form of attempt contradicted Stephen's view that Denman's antithesis was a general principle in disguise.¹⁵¹ Stephen believed that that principle could be traced back to the joint action

¹⁴⁹ 2 Co Inst 561; *ibid* 12–15.

¹⁵⁰ A Bill to Amend the Law of Conspiracy as Applied to Masters and Servants HC Bill (1873) [190] (36 & 37 Viet).

¹⁵¹ For Wright this antithesis was "not intended to be a complete definition of criminal combination," Wright (n 285) 9–10.

of the *Poulterers' Case*'s principle and the doctrine that the King's Bench was the *custos morum*. This doctrine allowed "for a great variety of purposes [to be] made criminal," and then to apply to former to them.¹⁵² In other words, conspiracy continued to be a sort of attempt deriving its criminality from the main offence. The only peculiarity during this period is that some offences could be *ex post facto* judicial creations. Then "after the criminal law receded from a portion of the wide area over it which it had thus claimed jurisdiction during the 17th century, the law of conspiracy continued to be applied to combinations for purposes which had ceased to be criminal by the ordinary law."¹⁵³ It is this holdout that led to a "suggestion of a general doctrine that a combination may be criminal, although that which it proposes would not be criminal apart from the combination." Thus, "by the end of the 18th century an impression appears to have grown up amongst lawyers, which can only be described by the double proposition that a combination to do an unlawful act is criminal, and that in this phrase 'unlawful' does not necessarily mean 'criminal.'"¹⁵⁴ Wright uses the terms *impression* and *suggestion* to indicate that this proposition was not grounded on authority. Further, he goes over the existing cases to find out whether any special conspiracy had been created out of this alleged general principle as theorized by Stephen. After careful scrutiny, Wright concludes that these precedents involved conducts that were already criminal under statute or common law or had been deemed criminal by the *custos morum*. Therefore, the application of the law of conspiracy could be considered as a form of attempt.¹⁵⁵

Summing up, conspiracy was an inchoate offence deriving its criminality from the main offence, there was no authority supporting the belief that there was a general principle or wide conspiracy, and this belief could be explained as a ghost-limb conspiracy after the subsiding crime had been repealed. As such, Wright could further conclude that "up to the present the doctrine [of conspiracy in restraint of trade] had not been established by any binding authority."¹⁵⁶ Nor was there "sufficient authority for concluding that before the close of the 18th century there was supposed to be any rule of common law that combinations for controlling masters or workmen were criminal, except

152 *ibid* 8.

153 *ibid*.

154 *ibid* 9–10.

155 *ibid* 23–34.

156 *ibid* 35.

where combination was for some purpose punishable under statute.”¹⁵⁷ It followed that “if such a rule is established by cases decided since the passing in 1825 of 6 Geo 4 c. 129... [it] is a modern instance of the growth of a crime at common law by reflection from statutes, and or its survival after the repeal.”¹⁵⁸ Thus, the law of conspiracy in relation to trade unions was not only a recent creation of the courts, but—in contrast to Stephen’s view that the general principle gave them legislative powers—was illegitimate since it was based on an erroneous assumption.¹⁵⁹

Wright’s theory about the law of conspiracy was “undoubtedly inspired by his sympathy for the labor movement.”¹⁶⁰ His definition of conspiracy left no room for judicial interpretation, and it was up to legislatures only to decide what purposes workers could not combine for. As we have seen, an essential part of Wright’s argument was his historical inquiry that brought the *Poulterers’ Case* to the fore as a leading case in modern conspiracy. This idea could be traced back to Longe’s work.¹⁶¹ However, Wright’s treatise went far beyond the narrower issue of the application of conspiracy to trade unions. Longe had not provided a unified theory but rather a tripartite typology under which the cases might be arranged. Only the first type (“agreements to commit acts of a criminal nature as referred to an individual”¹⁶²) corresponds to Wright’s definition, but the other two were reminiscent of the wide rule that the Wright rejected.

It is true that Wright admitted that “there might be cases in which the concurrence of several persons for committing an offence may essentially change its character, and so enhance its mischief that the joint act may properly be treated as a crime.”¹⁶³ He also admitted that “acts not punishable in one person may properly be treated as crimes when they are done by several persons acting in agreement.”¹⁶⁴ However, prosecuting those situations by means of a wide rule “involved an important delegation of a legislative power in a matter in which the exercise of such power ought to be carefully guarded.”¹⁶⁵ Wright

157 *ibid* 43–44.

158 *ibid* 44.

159 Wright’s explanation was later echoed by scholars such as Hedges and Winterbottom (n 147) 14, 17–18; Sayre (n 8) 398–403; cf Orth (n 52) 40–1.

160 Friedland (n 270) 326.

161 Curthoys (n 152) 179.

162 Longe (n 154) 47.

163 Wright (n 285) 65.

164 *ibid* 66.

165 *ibid* 68.

did not believe that gaps in criminal law should be filled by allowing a “general rule that agreement may make punishable that which ought not to be punished in absence of the agreement,” but rather by specifying and carefully defining those “cases in which acts done by several persons in agreement ought to be punished, although the same act ought not to be punished if done without agreement.”¹⁶⁶

In conclusion, although Wright realized that cooperation may render criminal an otherwise merely tortious or lawful conduct, he did not advocate for turning cooperation itself into a crime. Instead, he preferred a case-by-case approach to the problem of cooperation. In the end, although Wright embraced the idea of conspiracy as cognate to attempt, he was willing to accommodate the wide rule and the notion of cooperation as special conspiracies. This was possibly due to Stephen’s influence.

Almost at the same time that Wright published his tract, Stephen wrote a new article on the question of conspiracy as applied to trade unions, which suggests that both might have been apprised of each other’s ideas and that the latter might have read the former’s draft.¹⁶⁷ A speech given by Frederic Harrison, and published in *The Times*, gave Stephen the opportunity to qualify and complete his argument, while accommodating Wright’s findings.¹⁶⁸ His stance on the law of conspiracy as applied to trade unions had budged as compared to his December article. There, he called for the codification and repeal of the common law of conspiracy on the grounds that its amendment to add a new exception would not do since the essence of conspiracy was the power it gave the courts to declare any conduct unlawful. As seen earlier, Wright took a rather different road. He sought to limit the application of the common law conspiracy to penal statutes, on the ultimate grounds that conspiracy had evolved as an inchoate crime.

In this second article, Wright continued to espouse the cause of codification of the criminal law of England, but he did it in a subtler way.¹⁶⁹ If we

¹⁶⁶ *ibid* 67.

¹⁶⁷ James Fitzjames Stephen, ‘The Law of Conspiracy’ *Pall Mall Gazette* (17 April 1873) 4.

¹⁶⁸ Frederic Harrison, *Workmen and the Law of Conspiracy* (Printed by the Trades’ Union Congress 1873); originally published on March 24, 1873, in *The Times*; it is worth noting that while Harrison cited Wright’s treatise, Stephen did not.

¹⁶⁹ This proves Radzinowicz’ depiction of Stephen as a blunt writer wrong, Leon Radzinowicz, *Sir James Fitzjames Stephen, 1829-1894 : And His Contribution to the Development of Criminal Law / by Leon Radzinowicz* (London : B Quaritch, 1957) 9-10.

focus on the last part of the article only, it seems as if he had changed course with regard to his previous one. Indeed, he argued that the problem of the application of the law of conspiracy to trade unions could be dealt with in two ways: through “the codification of the law as a whole... [or] its amendment.”¹⁷⁰ In December, however, he had warned that amending the law of conspiracy was but a stopgap solution, and that the real problem was the implicit power to create new offences which would not cease until repeal—and restatement. In this new article, in contrast, he seems to concede the view that conspiracy should be amended in order to limit punishment, so that “no conspiracy to commit any offence should be punished more severely than the offence itself might have been punished if committed,” and to exempt trade unions from conspiracy by “limiting the law of conspiracy as to acts directed against individuals to cases in which the object was to be effected by the perversion of the course of justice, crime, and fraud, the law relating to conspiracies affecting the public at large being left as it stands at present.”¹⁷¹

He also seems to agree with Longe’s and Wright’s thesis that trade unions were not punished as conspiracies in restraint of trade prior to the statute repealing the Combination Acts of 1825. However, he does not commit to any particular theory since he concedes that “it admits of much argument whether this was by virtue of a principle of common law or because the old combination laws then in force made the objects of the combination criminal in themselves.”¹⁷² The latter was Wright’s thesis. Stephen, in contrast, sustained that the expansion was warranted because of the general nature of the law of conspiracy, as we saw in the December article.

In this new article, Stephen was addressing a different audience. We should keep in mind that the public debate revolved around whether to amend the law of conspiracy with regard to trade unions. Trade unions and their apologists were not concerned with the overhaul of the legal system as a whole, nor with the codification and reform of criminal law. As in December, Stephen was trying to reframe this debate to put forward a more ambitious agenda. In this article, however, his attempts were less direct. There is no better evidence of Stephen’s ultimate intent than the contrast between his and Harrison’s interpretation of Brett’s rule. Whereas Harrison interpreted it as a conspiracy to commit a misdemeanor of molestation, thus connected to the CLAA, Ste-

170 Stephen, ‘The Law of Conspiracy’ (n 312) 5.

171 *ibid.*

172 *ibid.*

phen saw it as an instantiation of a wider principle that seemed to fill a gap in the criminal law.

Harrison's understanding of the offence of conspiracy was shaped by Lord Denman's antithesis and Stephen's view that "the whole extent of the crime turns... on the meaning to the word unlawful." This view had resulted in the tripartite typology of the purposes for which it would be illegal to combine that Stephen had set forth in his edition of *Roscoe's Digest of Criminal Evidence*. Harrison shared Stephen's December article setup and agreed that the problem rested on the vagueness of conspiracy that gave "a vast latitude of interpretation." This unchecked "vague power" was particularly outraging when it was "brought to bear on class and trade disputes... [and] rests on certain doctrines about society, industry, and capital, which, to say the least, are not universally accepted."¹⁷³ According to Harrison, Brett had come up with two new *satellite concepts* or expressions, "unjustifiable annoyance and interference with the mind of ordinary persons," which he interpreted as "improper molestation" under the relevant clause of the CLAA. Therefore, being molestation "a civil wrong," it fell under the second of the headings of the tripartite classification of conspiracy. However, *unjustifiable interference and annoyance* was "a phrase of vague extent." Hence, it could be said that "every combination, simply is to interfere with the mind of the employer and compel him to accept the terms of the men by showing him the unpleasant consequences of refusing them." In sum, if Brett's interpretation went unchecked, "combinations and strikes would be mere figures of speech."¹⁷⁴ Harrison's remedy was to make the "law intelligible" by enacting "distinctly... to what acts the crime of conspiracy applies."¹⁷⁵ It is clear that Harrison's main target was the CLAA, which he wanted to have repealed. It was the penal clauses of this law that enabled the oppressive prosecution of strikers.¹⁷⁶ As for conspiracy, he fell short of repeal. Listing and limiting its prosecution to certain special conspiracies was his strategy. Harrison's reasoning implied that he considered conspiracy a single offence—not unlike Chitty's special definition of conspiracy as a list of special conspiracies—rather than a functional category of several different crimes—as Stephen believed.

¹⁷³ Harrison, *Workmen and the Law of Conspiracy* (n 313) 3.

¹⁷⁴ *ibid* 5.

¹⁷⁵ *ibid* 8.

¹⁷⁶ See Frederic Harrison, *The Criminal Law Amendment Act* (Printed by H W Foster, Bear Alley, Farringdon Street E C 1873); article originally published on June 2, 1873.

By contrast, Stephen did not read Brett's ruling in isolation, but as the latest of "a variety of decisions" that could be classified under a new type of special conspiracy: "combinations for the purpose of injuring individuals by means other than fraud." This was in fact Wright's phrasing, and Stephen later rephrased this conspiracy as "to agree to compel a person by the force of numbers to do against his will anything which causes him loss or pain." Examples of this offence were cases in which "a person is singled out for persecution... [by] his enemies" such as a "combination to ruin an author or a professional man" or a "body of people combined to hiss an actor whenever and wherever he appeared... or to watch a man and sue him in civil courts whenever an excuse for doing so occurred." This interpretation of the principle involved in Brett's rule departed from Stephen's fictional theory of the *conspiracy* in the crime of conspiracy. It is clear that in this case conspiracy (understood as cooperation, not merely agreement) was not only a part of the main offence, but the very essence of the offence, which was the malicious use of the *force of numbers*. Therefore, the use of conspiracy in this case, by contrast to Harrison's, was not specifically linked to the molestation and obstruction clause of the CLAA but to a wider common law offence created through conspiracy. In any event, though this principle filled a gap in the criminal law of people resorting to the force of numbers to compel other people to act against their will, Stephen admitted that this offence "overlaps the exceptions which legalize what used to be conspiracies in restraint of trade." Carving out exceptions was almost out of the question since "it would be very difficult, to devise words which would legalize the amount of annoyance which is inseparable from a strike, and which would not legalize those miscellaneous indefinite ways by which a number of persons may oppress and even ruin individuals which have referred to." The amendments suggested by Harrison "would make the law of conspiracy reasonable," but at the cost of leaving a gap in the criminal law.¹⁷⁷

Word choice is important in this article. The proposed changes would make conspiracy *reasonable*, at least with regard to trade unions. Amending the law of conspiracy was a solution only because repeal was not possible until the codification of the criminal law would be completed since conspiracy was a "highly convenient patch upon an old and ragged garment,"¹⁷⁸ and Stephen

¹⁷⁷ All quotes in this paragraph are from James Fitzjames Stephen, 'The Law of Conspiracy' *Pall Mall Gazette* (17 April 1873) 4 5.

¹⁷⁸ Stephen, 'The Law of Conspiracy' (n 324); he seems to suggest that a complete

feared “that our prospect of an English Penal Code is very remote.” However, Stephen could not help concluding the article by passing judgment on this very solution and revealing what his preferences were. The law of conspiracy “can hardly be made plain or simple till the body of general law has been recast.”¹⁷⁹ This was the real purpose of the article: to bring the codification of the criminal law to the attention of the general public and the working classes. In other words, while in his December article he had urged an all or nothing strategy upon the trade unions, in this article he was more realistic as to the timing of a prospective codification. It is possible that he had expected his calls for codification to find a more sympathetic reaction the first time around. But it fell on deaf ears. Harrison was not calling for it, and neither was Wright.

But there is no doubt that he believed that the codification of the criminal law, including the codification of conspiracy, was the only real solution to the real problem of ambiguity, uncertainty and judicial legislation. Indeed, only a few paragraphs earlier he warned that conspiracy “can be made distinct only by making the criminal law itself distinct in places in which it is at present indistinct. To do this thoroughly it would be necessary to have a penal code, which I think would be both desirable and possible.”¹⁸⁰ If codification was not on the table, surely amendment would temporarily do if the goal was to make the law of conspiracy as applied to trade unions more *reasonable*. But if the goal was to make the law more certain, then there was only one way to go: codification.

One might wonder why the repeal of conspiracy and its restatement in statutory form to make it more certain implies the codification of the criminal law. Stephen tells us that the law of conspiracy has been used to patch up and fill up gaps in the law. In order to understand Stephen’s reasoning here we have to turn to the first part of the article, where he outlines the history of the law of conspiracy, and in so doing shows us what his understanding or theory of the offence of conspiracy was. Such understanding is related to the argument that conspiracy cannot be repealed until the criminal law has been codified. Indeed, in that first part of the article, we discover a plan and a model for the codification of conspiracy. It seems, therefore, that he expected for the criminal law of England to be codified at some point.

code must be enacted before the law gets rid of this tool that allows judges to fill in gaps.

179 *ibid* 5.

180 *ibid* 4.

As mentioned earlier, in Stephen's *General View*, there was no indication as to how the fictitious conspiracy had been generalized, and to how it became connected to the wide principle according to which the King's Bench, as the *custos morum*, could punish at common law acts that were immoral or against public policy. In this piece, he included the historical account he had made back in 1863 in the *General View* but which he had not mentioned in the December article. He reaffirmed the medieval origins thesis by maintaining that it was "the very first crime which was ever defined by statute."¹⁸¹ He clearly meant the *Ordinacio de Conspiratoribus* 1305 (33 Edw 1). The crime affirmed by the statute "was levelled at an abuse which perverted the whole course of justice, and frequently produced disturbances bordering civil war... when a powerful man wanted to dispose of his enemy by the help of his tenants and other dependants, he could either prosecute him maliciously in some of the criminal courts... or attack him with the strong hand. In either case the parties had to 'confeder of bind themselves' together."¹⁸² Although he does not explicitly mention it, Stephen is suggesting here his theory of the fictitious use of conspiracy. The substance of the offence is the abuse of criminal procedure by procuring malicious prosecutions understood here as maintenance, and the agreement or conspiracy was only a part of it. In other words, the agreement was contained in the larger offence, but became the offence codified in the statute.

Wright's historical argument gave Stephen an opportunity to explain how the medieval offence was generalized. As the Star Chamber had taken over the punishment of maintenance, in the *Poulterers' Case* it "first established the doctrine that an agreement to commit a conspiracy as defined by the statute of Edward I, was itself a misdemeanor, although no overt act of maintenance or the like followed upon it."¹⁸³ As it happened with Wright, this interpretation might lend itself to circularity. We have to keep in mind that by *conspiracy* Stephen means the abuse of criminal procedure. Thus, Stephen could assert that the court found the principle that an agreement to commit conspiracy was punishable. Yet at the same time, according to his previous account, the *Ordinacio de Conspiratoribus* 1305 (33 Edw 1) had defined the crime of false accusations by fictitiously referring to the agreement that preceded it. That is why Stephen also believed that "the words of the statute warrant" the punishment of conspiracy without an overt act. Indeed, earlier in the article he had

¹⁸¹ *ibid.*

¹⁸² *ibid.*

¹⁸³ *ibid.*

given as an example a case in 1321 where there was no actual maintenance but was “within the express words of the statute.”¹⁸⁴

What are we to make out of this? It seems that Stephen was eager to accommodate Wright’s view into his. But he did not need the *Poulterers’ Case* for his theory. As he says, “be this how it may, much of the present law consists of an expansion of this principle and its application to other offences than the crime of conspiracy as defined by the Act of Edward I.”¹⁸⁵ This might mislead us into believing that Stephen accepted the view that the idea of conspiracy as an inchoate offence was first formulated in the *Poulterers’ Case*. Far from that, his insistence that the case was within the letter of the statute seems to indicate that what he believed was generalized was the fictional theory: the idea that the agreement to commit any crime might be punished in lieu of any other crime than the crime of conspiracy—understood as abuse of criminal procedure.

Moreover, Stephen goes on to explain the real substance behind the modern development of conspiracy. The “doctrine that acts highly immoral or mischievous might be treated as crimes, though they fell under no recognized head of criminality.” That is, under the theory that the King’s Bench was the *custos morum* of the King’s subjects, “the courts of law exercised a very wide discretion in determining that large classes of acts were criminal, not because they were breaches of any specified law, but because they were highly mischievous to the public.”¹⁸⁶

Stephen contended that “gradually... the combination of this principle with the doctrine established by the *Poulterers’ case* has given us the law of conspiracy, as we know it.” Yet he fell short of explaining how, because “it would be tedious to trace out in detail.” This amounts to an admission of guilt, all the more since Wright had worked so hard in order to disprove the existence of wider conspiracy as defined in Denman’s antithesis. What Stephen believed to be “the law of conspiracy, as we know it” was the law that “all combinations of two or more persons for an unlawful purpose are themselves criminals.” The use of the *custos morum* power in this guise of the fictional conspiracy was an example of what “might have been called a compromise if it had been arrived at by express negotiation between independent persons.” The scope of these powers had been narrowed in one direction, while they had widened

184 *ibid.*

185 *ibid.*

186 *ibid.*

in another: “on the one hand, isolated acts of wickedness or vice shall not be treated as crimes... on the other, combinations for a wicked purpose shall be treated as crimes though the act to be done would not be a crime if done by an individual.” Indeed, “most of the acts which it would now be a conspiracy to combine to do would have been treated as crimes if done by individuals in the sixteenth or seventeenth century.”¹⁸⁷ It should be kept in mind that Stephen is not referring to the idea of criminal cooperation or cooperation as turning something into criminal. Rather, through the fictional conspiracy, the power of creating offences through the *custos morum* had been narrowed to those that involved cooperation only.

This historical explanation allows Stephen to focus on the special conspiracies, that is, on the offences created through this power. Stephen comprised them under seven headings: “The perversion of the course of justice. 2. The commission of crimes. 3. The promotion of political disturbances. 4. Fraud. 5. Immorality. 6. The restraint of trade. 7. The injury of individuals by means other than fraud.”¹⁸⁸ This typology of conspiracies reminds us of Chitty’s and Longe’s. There is a very important difference though. For Stephen, there is no single class or crime of conspiracy defined casuistically as a series of headings. Conspiracy is an empty general clause conferring the judges the power to fill in gaps in the law. As such, the headings amount to independent offences created by these means. That is why conspiracy could only be repealed if the criminal law was codified. Since it was a placeholder category in which several other crimes had been placed, only when those crimes had been placed within the system of a code, could conspiracy finally be disposed of. Indeed, later in his *Digest* that was the basis for his Draft Code, he did not include any definition of conspiracy in general nor any offence of conspiracy in general, but only these special conspiracies under their corresponding headings.¹⁸⁹

It should be noted that Wright’s inchoate conspiracy is for Stephen only one of the many offences created through this wide rule, whereas for the former it was the unifying theory of a single and unitary offence of conspiracy. The diversity of approaches of both authors led them to different conclusions as to the legitimacy of the decisions based on the conspiracy in restraint of

187 *ibid.*

188 *ibid.*

189 James Fitzjames Stephen, *A Digest of the Criminal Law (Crimes and Punishments)* (4th edn, Macmillan and Co 1887); Criminal Code (Indictable Offences). [As Amended in Committee] HC Bill 1879 [170].

trade. According to Wright, this offence had never existed; it was only after the Combination Acts were repealed in 1825 that the courts erroneously took what had been conspiracies to commit crimes under those laws to be common law crimes. By contrast, Stephen considers it to be one of the headings created by the fictional rule. To be sure, it was probably a recent invention no earlier than 6 Geo IV c 129, and the CLAA had removed “the restraint of trade altogether out of the list of crimes” punishable as conspiracy.¹⁹⁰ But Stephen did not deny that the courts had the power to create this crime, and therefore that the crime had existed.

In sum, in this second article, we should distinguish Stephen’s position with regard to the trade unions issue from his stance on codification. If we look at the specific concrete problem of Brett’s decision and the problem of illegalizing strikes where no violence or public interest is involved, Stephen grants that amending the law of conspiracy will temporarily do. But this strategy of negative legislation was dead wrong on a deeper level. It would never solve the source of the evils of the law of conspiracy: its vagueness. This argument could be indeed applied to other consolidating statutes which presupposed preexisting common law crimes (such as homicide). As long as the crimes had not been put in certain and statutory form, courts would continue to have the power to create new offences. Furthermore, Stephen believed that conspiracy was not a substantive offence but a mere fiction, and that the true mechanism at work behind the law of conspiracy was the general principle that the courts could punish acts they considered immoral, or against public policy. This was an altogether new idea as to the nature and interpretation of the law of conspiracy, that departed not only from traditional accounts but also from Wright’s inchoate theory. This indeed granted the courts the power to create new offences. And thus, since a number of new offences had been created invoking this power, the repeal of the law of conspiracy—that is, of this power to create offences—involved the codification of the criminal law.

Thus, Stephen had tried to put the debate on trade unions at the service of codification, or at least to bring the codification of the criminal law to the attention of the wider public as he did after his arrival in England. We must understand his argument about conspiracy as an argument for codification of the criminal law in general: digests or special statutes will not do with the problem of uncertainty in the law, and uncertainty in the law implied judicial legislation. Uncertainty—and judicial legislation—could only vanish with

190 Stephen, ‘The Law of Conspiracy’ (n 312) 5.

a code that defined the law precisely and clearly. It is true that Stephen coincided with Wright in considering the problem of the trade unions as one of legitimacy: were the courts legitimated to decide on matters of policy? But whereas Wright thought of conspiracy as an inchoate crime that had never really been legitimately applied to trade unions, Stephen's general point was that insofar as the common law remained in place, the courts would have a legitimate power to decide matters of policy. Thus, the application of conspiracy to trade unions was legitimate.

We have so far seen how the *Poulterers' Case* became a leading case in explaining the emergence of modern conspiracy.¹⁹¹ I will now turn to describe the case, and will pay particular attention to how the records of the depositions in The National Archives help us understand what the facts were, and what the underlying rationale of the existing reports of the case was.

¹⁹¹ In this section, I will revisit an argument scattered across several chapters of Víctor Saucedo, *Conspiracy. A Conceptual Genealogy (Thirteenth to Early Eighteenth Century)* (Editorial Dykinson 2017); in particular, I will draw from pp. 288-305.

The Case

According to the depositions, there was a previous dispute between Thomas Stone and the defendants. Stone had remarried Alice Pigborne, widow of the late James Pigborne, poulterer by trade. Several members of the Company of Poulterers owed the latter, so Stone decided to recover those debts.¹ He brought several actions against Edward Leake, John Vowell, Allen Baker, Thomas Moyse, Richard Keyes, Edward Hunter, and Thomas Okeley and his wife.² At the time of the events, the suits had been pending for 4, 5, and 6 years respectively. The depositions taken by the Star Chamber reveal that the “defendants along with other members of the trade had “maliced and born such evil to the Compl[ainant],”³ and had engaged in a clear pattern of intimidation and harassment towards Stone and his family.⁴

The events of the case began when Ralph Walters—John Woodbridge’s and Henry Bates’ apprentice—appeared with a broken head and a bloody bandage at the church of Ugley, and then went to Newport pond in Essex to raise the hue and cry for a robbery.⁵ John Avery—who would later be a juror of the grand jury at the Essex Assizes where Stone was prosecuted—took down the report⁶ in which Walters claimed that one of the robbers rode a grey horse, that they took a fardel of gear he carried for another person, and that they bonded his hands and feet.⁷ Walters also said that one of the robbers had his face covered with a false beard.⁸ After that, John Avery probed some of the people involved in the hue and cry, included the high constable.⁹

1 *Stone v Walters* [1611] The National Archives: STAC 8/259/31 f1 r.; this was a pattern of litigation at the time: a “woman who married, or a widow who remarried, might acquire a partner who took it upon himself to pursue claims possessed by his spouse which she had not dared do anything about,” John G Bellamy, *Bastard Feudalism and the Law* (Routledge 1989) 57.

2 f1 r., f13 r.

3 f1 r.

4 f13 r.

5 f70 r., f71 r., f73 v., f 83 r., f84 r.

6 The folio of the first deposition in the record is not numbered (first deposition hereafter), f41 r.

7 First deposition, f71 r., f72 r.

8 f73 v.

9 f71 r., f72 v., f73 v.

They informed him that when they got to the crime scene they found that Walters' horse and the surcingle was cut, the panniers riffled, and the stuff of the saddle plucked out as if someone had searched for valuables.¹⁰

Thereafter, Walters went to Geoffrey Nightingale, Justice of the Peace in the county of Essex, who examined him. Since Walters could not produce the names of the robbers, no warrant for the apprehension of the suspects could be issued and Nightingale told him to wait until the next Sessions to see if could learn their names.¹¹ The next Thursday after the robbery, Walters took John Woodbridge and some other later defendants in the lawsuit at the Star Chamber to the place of the robbery.¹² They searched for any coins the robbers might have dropped. On Sunday, some people in the vicinity saw a horse riding alone that could be Walters'.¹³

On May 2, Walters, along with Anthony Hakes and Simon Joy, were riding together on the King's Highway. They came across someone whom Walters thought he had recognized as one of the robbers. Hakes made him ride back to check whether it was really him.¹⁴ They chased him. Then Hakes went to Enfield to ask for help but the constable there was injured and the headborough was nowhere to be found. He was told that anybody could stop a suspect of felony. When Hakes caught up with Walters and Joy, they had apprehended the man. It was Thomas Stone.¹⁵ Hakes, realizing that Stone was a member of the Company of Poulterers and that Walters might be wrong, thought it was better to let him go.¹⁶ It further turned out that Stone was a servant to the king, and that when he was detained, he was on his way to give a message to Lord Denny on behalf of the king.¹⁷

Stone reported the incident to the Green Cloth. Walters was summoned before Sir Henry Cock, Sir Robert Banester, and Sir Marmaduke Correll. He was charged with assaulting Stone and accusing him of robbery while on the king's service.¹⁸ Walter said that he was mistaken and prayed that his offence

10 f70 r., f71 v.

11 f70 r., f72 v., f73 r., f85 v.-f85 r., f87 r.

12 f72 r.

13 f72 r.

14 f168 r.

15 f37 r.

16 f169 r.

17 f38 r. See also f132 r., f143 v.-f143 r., f101 r.-f102 r.

18 f38 r., f143 r.

be forgiven and remitted.¹⁹ The court bound him over to remain in good behavior. Henry Stapleford, who was there along with the others that would be defendants in the Star Chamber, undertook the bond attesting that Walters was an honest man.

The following days, the poulterers started spreading false rumors about Stone in London. Walters, Hakes and Joy said at Newgate Market that Stone was a “theife, and a gentleman theife.”²⁰ Walters also told George Bomeley and John Woodbridge and his wife that he had been robbed by Stone.²¹ Another poulterer mentioned at a place called the Shambles that Stone was known by a scarf he wore about his neck and face, and that he knew someone who had been robbed by him.²² After May 10, at Gracechurch Street, one of the poulterers’ wives reported that Walters had been robbed, and that before the Justice of the Peace, he had taken Stone by the beard saying that that beard had robbed him.²³ In early June, Avis Barrakey, a chairwoman and servant to Stone, while at the house of James Harlowe, heard his wife Elizabeth telling him that she had a washwoman asking her whether Stone was a gentleman thief. Elizabeth inquired her husband whether to give credit to that rumor, but Harlowe reprehended her.²⁴ Other defendants’ wives also were gossiping that Stone was robbing people under color of the king’s service to support his family.²⁵

Stone tried to put a stop to the rumors by bringing an action before the Green Cloth²⁶ against Hakes, Nicholas Kefford, William Birt, Allen Baker and his wife and sister, James Harlow and wife, and Walters for slandering him with false reports. Henry Stapleford and William Woodbridge came along with Walters, giving him countenance.²⁷ Walters told the clerk of the Green Cloth

¹⁹ f38 r.

²⁰ f1 r.-f2 v., f7 v.

²¹ f105 r.

²² f38 r.

²³ f89 r.

²⁴ f53 r., f130 v., f147 r.

²⁵ f4 v. On the role women played in defamation see RH Helmholz, *The Oxford History of the Laws of England: The Canon Law and Ecclesiastical Jurisdiction from 597 to the 1640s*, vol 1 (Oxford University Press 2003) 575–6.

²⁶ f50 r. The records speak of the counting house, but I presume that it is the Green Cloth. Later, the records talk about a suit for slanderous words at the Sheriff’s court in the Guildhall of London. It is probably the same case that might have been removed to this court. Or perhaps the deponents were mistaken about which court it was.

²⁷ f2 v., f7 v.-f8 v., f39 r., f42 r., f126 r.

that he was mistaken.²⁸ The other defendants persuaded Walters to stand by his accusation fearing they would be adjudged for slander.²⁹ Henry Stapleford promised that John Woodbridge would be bound in 100 pounds that Walters would press charges against Stone.³⁰ The poulterers unsuccessfully tried to stay the proceedings by suing a writ of privilege to remove the action to the Common Pleas.³¹ Then they tried again to remove it to the King's Bench by a writ of habeas corpus.³² The verdict was in Stone's favour, giving him damages in a hundred marks (roughly £67).³³ However, the poulterers were able to stay judgment for nine months by suing a writ of error and having Walters banished from London.³⁴ Henry Baters paid all the fees and charges for Walters.³⁵

Henry Stapleford, Nicholas Kefford, and William Birt met at the Guildhall "to consule plot practice conspire or conclude to have [Stone] indicted for robbing Raphe Walters... or to take away... [his] lyefe in that respecte, or to begg his lands goods Chattells... under coulour [of the law]."³⁶ That very same day, the Masters and Wardens of the Company of Poulterers sent their beadle for Margory Bromeley to come to the Guildhall. They wanted to learn from her what the wealth of Stone was.³⁷

They also procured a warrant from Sir Thomas Bennet JP to arrest Stone.³⁸ He was brought to be examined before another Justice of the Peace in London, Sir Stephen Soame.³⁹ Walters charged Stone with having robbed him of 30 shillings, a cloak, a hat, and the outside of a woman's gown.⁴⁰ He insisted that at the time of the robbery Stone was wearing a false beard. Soame bound him to give evidence at the Sessions at Newgate.⁴¹ After the arrest, William Birt and the Master Warden of the Company of Poulterers came into Stone's

28 f126 r., f132 r.

29 f2 v., f7 r.

30 f132 r.

31 f42 r., f43 r., f127 v., f102 r.-f103 v.

32 f144 r., f43 r., f44 r., f103 v.

33 f44 r.

34 f43 r., f44 r., f45 r., f50 r., f103 r., f144 r.

35 f103 r.

36 f48 v.-f49 r., f8 v., f53 v., f56 r., f14 r. Emphasis mine.

37 f2 v., f14 r.

38 f2 r., f49 v.

39 f49 v., f94 r.

40 f47 r., f104 r.

41 f48 r.

shop, demanding from his servants and wife whatever good he might have.⁴² They told them that Stone should have taken his complaint to the Company and that he was doomed.⁴³ Stone's wife, who was expecting, was so scared that she was afraid that she was going to have an untimely delivery.⁴⁴

At the Sessions held at the Old Bailey, Walters repeated what he had declared before Soame, but he was warned by the Lord Bishop of London that the wearing of the false beard was very unlikely because Stone usually grew a real one.⁴⁵ The court determined that because the events had taken place in Essex, the cause ought to be heard at the next Assizes at Chelmsford. Stone was bound over to answer, and Walters to give evidence. Henry Bates, John Woodbridge, Allen Baker, and Anthony Baker were bound by recognizances as sureties for Walters.⁴⁶ After the Sessions, they went to a tavern where they were heard saying that they would have Stone hanged.⁴⁷

During the days before the Assizes, the poulterers did what they could to harass Stone and his family and ruin their trade and reputation. The poulterers warned them that they would be forced to leave Gracechurch Street.⁴⁸ They took away the wares of his mother-in-law without paying.⁴⁹ They said to other people that if they could find a hole in his coat they would hang him off of it and that they would have his wife and mother-in-law wandering the streets.⁵⁰ The defendants' wives came to Stone's home to watch the goods carried out of it.⁵¹ One of them derided Alice for pretending that her husband was an honest man, and told her that after they were done with him, she would have to go back to where she was born.⁵² Other defendants spread the rumor that Stone had sold his royal office to beg his pardon.⁵³ Throughout, they continued to call him a gentleman thief and a knave.⁵⁴

42 f2 r.

43 f3 v.

44 f15 v.

45 f48 r., f98 r., f58 r.

46 f48 r., f49 r.

47 f99 v.

48 f1 r., f3 r.

49 f1 r., f7 v.

50 f3 r.

51 f4 v., f16 r.

52 f4 v., f17 v.

53 f11 v.

54 f52 v., f92 r., f93 v.

The Assizes at Chelmsford were held on July 4, 1608.⁵⁵ Henry Bate, John Woodbridge, Anthony Hake, Symon Joyce, Edward Leake, Allen Baker, Henry Stapleford, and John Raymond came along with Walters, giving evidence to the Grand Jury and reaffirming his honesty.⁵⁶ Upon oath, Walters gave evidence, repeating the same charges he had given before the JP and at the Quarter Sessions in the Old Bailey.⁵⁷ He denied that those who robbed him had any grey horse. However, John Avery, who had taken the report after the hue and cry, and who was now one of the jurors, showed a copy of Walters's own words affirming that there was a grey horse.⁵⁸ Nightingale JP certified the examinations he had made at the time of the hue and cry.⁵⁹ It seems that some poulterers had bribed the sheriff's men to place Stone into the dock among the other felons to disgrace him.⁶⁰ One of the justices of the Assizes commented that the people that kept Walters company and encouraged him seemed only to be too eager to have Stone hanged.⁶¹

Stone had an alibi, nevertheless. He had been in London the day the robbery was supposed to have taken place. Stone brought some thirty people to bear testimony to his abode in London the day of the crime as well as for his honesty and good character.⁶² The witnesses were heard but they were not allowed to swear to their testimony because they were not for the prosecution.⁶³ Among others, Thomas Standford had been with him around 2 pm. One Richard Palfreman had been with him between 4 pm and 6 pm. Robert Hull was twice at his house.⁶⁴ Furthermore, his horse was all day at one Hall's Stable. The jury found an ignoramus and Stone was discharged.⁶⁵

Subsequently, Stone brought an action before the Star Chamber to "cleere & free himselfe from the imputation & practices contayned in his Bill against

55 f146 r.; 1609 in f48 r.

56 f3 v., f15 r., f106 r., f99 r.

57 First deposition, f3 r., f9 r., f15 r., f41 r., f70 r., f99 r., f105 r.

58 f41 r. This proves that in many respects, juries continued to be self-informing into the seventeenth century.

59 f89 r.

60 f41 r.

61 f145 r.

62 f5 r.

63 f5r., f12 r.

64 f107 v.

65 f5 r.

the defendants in this Court [Star Chamber].”⁶⁶ The now defendants tried to settle the matter out of court. Bates and Woodbridge admitted to Stone that they might have been mistaken, and sent him a letter proposing that if he dropped the suit “Walters should submitte himself and vpon his knees acknowledge before the Greeneclothe, openly in the Guildhall where the s[ay]ed Cause depended, and amongeste his neighebers, in the p[ari]she Church, that hee the sayed Walters had mistaken the s[ay]ed Stoane wronged him in falsely chardging him w[i]th the s[ay]ed robbery.”⁶⁷ Several other defendants asked John Marshall, a Chandler, to help them make peace with Stone. They told him that they never held any ill will towards him, that they always thought well of him as an honest man and never gave him any reason for suing them.⁶⁸ Later however, when the process started, they accused Stone of barratry,⁶⁹ and intimidated some of his witnesses.⁷⁰

These facts reveal how the concept of conspiracy was changing at the time, particularly in the Star Chamber. They show how in actual practice there was a connection between the ecclesiastical concept of defamation, and the emerging action on the case for slander,⁷¹ and the development of conspiracy in the Star Chamber. The procedural story of the case took off with an action for slander. As a result of those proceedings, a false prosecution was initiated by the defendant to that action. The rejection of these charges by a grand jury along with the lack of common law remedy available prompted the defendant to that accusation to bring an action to the Star Chamber. The prospects of that action animated the defendants to try to elicit an extrajudicial settlement that would include the ritual of public repentance typical of ecclesiastical defamation.

The connection between slander and the expansion of the jurisdiction of the Star Chamber over conspiracy is particularly strong in this case. It is clear that what Stone sought by bringing the action before the Star Chamber was to vindicate his reputation after he had been prosecuted for felony. Stone first sued an action of slander to stop rumors accusing him of being a professional

66 f58 v.

67 First deposition.

68 f55 v.

69 f49 r.-f50 v., f53 r.,

70 f4 r., f6 v., f12 r., f13 v., f18 r., f129 r., f134 r.

71 See Baker (n 49) 438, 445; John H Baker (ed), *The Reports of Sir John Spelman*, vol 2 (Selden Society 1978) 246–7; Albert Kiralfy, *The Action on the Case* (Sweet & Maxwell, Limited 1951) 127.

thief and of having robbed Walters. Furthermore, the action he brought after the failed prosecution by them indicate that an *ignoramus* did not remove all suspicion from the accused, for which Stone resorted to the Star Chamber as keeper of the reputation of the subject.⁷² It is safe to say that after the Star Chamber had decided against them, the poulterers would no longer be tempted to press charges against Stone.

The connection with the action on the case in the nature of conspiracy is manifest in the emphasis that the interrogatories put on revealing the ill will of the defendants.⁷³ The question focused on three main areas: what the motives of the poulterers in prosecuting Stone were, whether they had some reasonable ground to be suspicious of Stone, and what was it that they intended by the prosecution. It transpires from the depositions that the poulterers had enmity towards Stone arising for past litigation, that Walters had no reasonable basis to identify Stone as one of the criminals that assaulted and robbed him, and that the poulterers encouraged Walters to prosecute Stone with the murderous intent of causing his death.

⁷² William Hudson, 'A Treatise on the Court of Star-Chamber' in Francis Hargrave (ed), *Collectanea Juridica. Consisting of Tracts Relative to the Law and Constitution of England*, vol 2 (Printed for R and R Brooke, Bell-Yard, Temple-Bar 1792) 107.

⁷³ A full account of the development of this action can be found in Kiralfy (n 407) 121–9.

The Issues

Two main questions of law were raised in the Star Chamber concerning this case. Firstly, “admitting this combination, confederacy, and agreement between them [the poulterers] to indict the plaintiff to be false, and malicious, that yet not action likes for it in this Court, or elsewhere... because no writ of conspiracy for the party grieved, or indictment or other suit for the King lies, but where the party grieved is indicted, and *legitimo modo acquietatus*.”¹ Secondly, it was argued that allowing an action would encourage “everyone who knows himself guilty... to cover their offences, and to terrify or discourage those who would prosecute the cause against them, and by such means notorious offenders will escape unpunished, or at least, justice will be in danger of being perverted, and great offences smothered.”² I will now turn to the issue of the acquittal requirement.

As Coke himself put it, at the time, it was blackletter law that for “a writ of conspiracy... at the suit of the party... [or an] indictment at the suit of the king” to lie the party aggrieved ought to be “lawfully acquitted by the verdict of twelve men.”³ On these rather narrow formal grounds, Stone could not have remedy at common law, nor could the poulterers be punished for their misdeeds. Were there any other grounds on which the Star Chamber could intervene? According to Coke’s report, although the court conceded that to be the law, they also declared that it was a rule of law that “a false conspiracy betwixt divers persons shall be punished although nothing be put in execution.”⁴ In support of that principle, Coke enlisted several arguments. Firstly, he cites a series of authorities that manifest to that rule of law:

In 27 Ass. P. 44 in the articles of the charge of enquiry by the inquest in the King’s Bench, there is a nota, that two were indicted of confederacy, each of them to maintain the other, whether their matter be true, or false, and notwithstanding that nothing was supposed to be put in execution, the parties were forced to answer to it, because the thing

¹ *The Poulterers’ Case* (n 20) 55b–56a; 73 ER 813, 814.

² *ibid* 55b; 73 ER 813. See also Sir Anthony Ashley’s Case below, where it is said that punishing prosecutors “will deter men to prosecute against great offenders, and thence great offenses will pass unpunished, which will be dangerous to the weal public 12 Co Rep 90, 91, 77 ER 1366, 1368.

³ 3 Inst 143.

⁴ *The Poulterers’ Case* (n 20) 56 b; 73 ER 813, 814.

is forbidden by the law... so there in the next article in the same book, inquiry shall be of conspirators and confederates, who agree amongst themselves, &c. falsly to indict, or acquit, &c.... and there is another article concerning conspiracy betwixt merchants... and it is held in 19 R. 2 Brief 926. a man shall have a writ of conspiracy, although they do nothing but conspire together, and he shall recover damages, and they may be also indicted thereof. Also the usual commission of *oyer* and *terminer* gives power to the commissioners to enquire, &c. *de omnibus coadunatibus, confederationibus, et falsis alligantiis*; and *coadunatio* is a uniting of themselves together, *confederatio* is a combination amongst them, and *falsa alligantia* is a false binding each to the other, by bond or promise, to execute some unlawful act⁵

It has been pointed out that these authorities do not support the point that there was a general law of conspiracy at common law since they all are dated after several statutes defining and regulating conspiracy. Therefore, it is presumed that these authorities rather illustrate the development and application of those statutes.⁶ However, we should recall first that Coke does not mean to show that there was a general conspiracy, but that “a false conspiracy betwixt several persons shall be punished, although nothing be put in execution.” That is a much narrower principle than the idea that combinations are punishable at common law. We should also bear in mind Coke’s different conception of the nature of the authorities he mentions as evidence of that principle—saving the possibility that what appears as a single argument in Coke’s report of the case were in fact bits taken from a seriatim opinion of the Star Chamber. There are two abridged cases, then the articles of the Eyre, and then the letter of the commission of *oyer* and *terminer* that gave justices in circuit the power to decide cases. Therefore, there is no realreasoning from authority but rather an evidential understanding of precedent cases. Cases are taken as evidence of the law rather than as the law itself. As he says, the principle that a false conspiracy is punishable before execution is “full and manifest in our books.”⁷

Furthermore, the so-called *de mutuis sacramentis* article of the Eyre allowed the punishment of these confederacies to support each other in litigation without reference to the acquittal of the party aggrieved and antedated the earlier statutes referring to conspiracy.⁸ Besides, as will be seen shortly,

5 *ibid*; 73 ER 813, 814-5.

6 Robert Samuel Wright, *The Law of Criminal Conspiracies and Agreements* (London: Butterworths 1873) 13–14.

7 *Ibid*.

8 Helen M Cam, *Studies in the Hundred Rolls: Some Aspects of Thirteenth-Cen-*

this argument begs the question since it assumes that the announced principle arises from statutory interpretation.

But apart from the question as to how far these authorities evidence a wider common law conspiracy, there is an interpretive difficulty in this passage. To begin with, Coke uses several terms as equivalent to *conspiracy*: *confederacy*, *coadunation*, *union*, *combination*, *alliance*, *binding each other*. Although Coke seems to use them as synonyms here, they convey slightly different but interrelated meanings: some refer to the concept of an association, some to that of a relationship between several people. Besides the term *execution* he uses along some of those terms selects yet another meaning: a plot or plan. Thus, the passage is mired with ambiguity arising from the many terms used. Therefore, it should not be ruled out that a large part of Coke's argument relied on this semantic phenomenon. That is to say, whereas the term *conspiracy* had a very specific legal meaning as referring to the remedy by writ or indictment to the wrong caused by a false indictment when the party had been acquitted and the indictors could not be held liable, it was also used in other contexts as synonym with other terms. It is possible that Coke took these usages across different contexts to be evidence of his principle.

However, whether the principle was established at common law or not, Coke did not stop short of providing authorities evidencing its use. He also provided reasons why these false confederacies could be punished before execution:

in these cases before the unlawful act [is] executed the law punishes the coadunation, confederacy or false alliance, to the end to prevent the unlawful act, *quia quando aliquid prohibetur, prohibetur et id per quod pervenitur ad illud: et affectus puniter licet non sequatur effectus*; and in these cases the common law is a law of mercy, for it prevents the malignant from doing mischief, and the innocent from suffering it. Hil. 37 H. 8. in the Star-Chamber a priest was stigmatized with F. and A. in his forehead, and set upon the pillory in Cheapside, with a written paper, for false accusation. M. 3 & 4 Ph. & Ma. one also for the like cause *fuit stigmaticus* with F. & A. in the cheek, with such superscription as is aforesaid.⁹

In this passage, Coke provides as the underlying reason of the principle two of those maxims of law expressed in Latin that he believed to be self-ev-

tury Administration, vol 6 (Oxford University Press 1921) 58–9; Jonathan Rose, *Maintenance in Medieval England* (Cambridge University Press 2017) 44–46; Saucedo (n 348) 127–8.”

9 *The Poulterers' Case* (n 20) 57 a; 73 ER 813, 815.

ident and to ultimately summarize the whole body of the law that derives from them.¹⁰ In order to understand what Coke means by those maxims,¹¹ we should discuss yet another Latin maxim not mentioned in this passage, but directly connected to the other two and which fully expresses the idea he is trying to convey: *voluntas reputabitur pro facto*, that is, the will must be taken for the deed.¹² This maxim appears several times across Coke's *Institutes*, explaining different rules of law. However, it seems to be more closely connected with rules defining certain forms of homicide. Specifically—and most importantly for our purposes—he discusses this maxim in connection to and when explaining the offence of conspiracy as well as the treason of compassing the death of the king as forms of homicide.¹³

False accusations of felony can be understood as offences against the administration of justice. Under this view, the wrong itself is not the harm caused to the person falsely accused but the more abstract wrong of abusing or perverting justice. This is the way most commentators have casted crimes such conspiracy. Indeed, historians of medieval conspiracy have emphasized this view.¹⁴ However, under another light, it can be said that since a felony was visited at the time with capital punishment, a false accusation can also be considered a form of murder. In the common law tradition, this view was as old as Bracton.

It is clear that those who are involved in the administration of criminal justice can be said to have an intent to commit homicide. Thus, for Bracton, one of the forms of homicide was committed “in the administration of justice, as when a judge or officer kill one lawfully found guilty.”¹⁵ However, when this intent to cause someone's death is motivated by the pursuit of justice, it is justified. In Bracton's words, when the killing “is done from a love of justice, the judge does not sin in condemning him to death, nor in ordering an officer to slay him, nor does the officer sin if when sent by the judge he kills

¹⁰ Simpson (n 70) 644.

¹¹ ‘When anything is prohibited, everything by which it is reached is prohibited also,’ Henry Campbell Black, ‘Quando Aliquid Prohibetur’ 1118; ‘the intention is punished although the intended result does not follow,’ Henry Campbell Black, ‘Affectus Punitur’ 53.

¹² ‘The intention is to be taken for the deed,’ Henry Campbell Black, ‘Voluntas Reputabitur’ 1427.

¹³ He also discusses the maxim in connection with robbery and the offence of aiding and abetting criminals to escape, 3 Inst 106.

¹⁴ Winfield (n 46) 2.

¹⁵ Bracton, II, 340.

the condemned man.”¹⁶ Contrarywise “both sin if they act in this way when proper legal procedures have not been observed.”¹⁷ In general, homicide committed in the administration of justice will not be justified “if done out of malice or from pleasure in shedding human blood [and] though the accused is lawfully slain, he who does the act commits a mortal sin because of his evil purposes.”¹⁸ In this view, motivation matters and qualifies the intent of those involved in the criminal process. They will be justified if they pursue justice for its own sake but will be liable when they act out of ill will and bloodthirst.

From this discussion of the problem of justification of homicide in the administration of justice, it follows that those who falsely cause someone to be convicted of felony can be considered as murderers. Coke shared this view. In discussing murder—in particular, those murders committed by indirect means such as by solicitation—he noticed that “there is another kind of murder (which is not holden for murder at this day) ... *ceux auxi que fausement pour lower, ou en auter manner ount ascun home damne ou fait dampner au mort, &c.* yet this is murder before God. And David killeth Uriah with his pen, and these men with their tongue.”¹⁹ In this passage he was probably thinking of the trial jurors and of cases where there was a false conviction. Britton, likewise, argues that the offence of homicide “inasmuch as this felony may be committed under colour of judgment through malice of the judge, or under some other pretence, as by false physicians and bad surgeons, and by poison and sundry other ways, our pleasure is, that all those who have committed such secret felonies be indicted; and also those who falsely for hire, or in any other manner, have condemned, or caused to be condemned, any man to death by means of a false oath.”²⁰

In sum, by contrast to other forms of murder where the criminal act is on its surface unlawful, in these cases the criminal act is apparently lawful, and criminality entirely rests on that *malicious* intent on the part of the secret criminal.

16 “Si vero hoc fiat ex amore iustitiae, nec peccat iudex ipsum condemnando ad mortem, et praecipiendo ministro ut occidat eum, nec minister si missus a iudice occidit condemnatum,” ib.

17 “Peccat uterque si hoc fecerit iuris ordine non servato,” ib.

18 “Si sit ex livore vel delectatione effundendi humanum sanguinem, licet ille iuste occidatur, iste tamen peccat mortaliter propter intentionem corruptam,” ib.

19 ib., 48; citing from Britton, I, 14.

20 “Et ceux ausi q[ue] fausement pur lower ou en autr[e] manere ou[n]t nul home dampne ou fait dampner a la mort p[ar] fauz serme[n]tz,” Britton, I, 14.

Then the question arises as to how to consider those false accusations of conspiracy that had been thwarted either in court or before coming to court. Coke believed that “before the raigne of H. 1.,” when “they which plotted, or compassed the death of a man under pretext of law by bringing false appeales, or preferring untrue indictments against the innocent of felony, who being duly acquitted, both the appellant and his abbettors were to suffer death.”²¹ Yet, later on, “king H. 1. By authority of parliament did mitigate the severity of this ancient law (lest men should be deterred and afraid to accuse) and did ordaine that if the delinquents were convicted at the suit of the party, they should make satisfaction, and be fined and imprisoned: but if they were convicted by judgment at the suit of the king... then they should lose the freedom of the law.”²² Indeed, it was this belief as to what the ancient law was with regard to failed malicious false accusations that led Coke to conclude that the late thirteenth-century statutes enacting and defining conspiracy were “but in affirmance of the common law,” and that the punishment at the suit of the king was also declaratory of this ancient law.²³

This literally retributive understanding of the punishment for conspiracy as based on the talionic principle could also be traced back to Bracton, who, undoubtedly drawing analogies with how the Roman *crimen calumniae* punished the accuser with the punishment he had intended on the defendant, argued that in the procedure by appeal “if the appellor is vanquished let him be committed to gaol to be punished as a false accuser (but he will lose neither life nor members, though according to the laws he would be liable to the talionic penalty if he had failed in his proof.”²⁴ This idea was later picked up by the *Mirror of Justices* on which Coke based his belief that the medieval statute of conspirators mitigated the ancient law: the *Mirror* contended that those “who appeal or indict an innocent man of a mortal crime and do not prove their appeals or their assertions; and such were formerly adjudged to death, but King Henry I ordained this mitigation, that they should be adjudged, not to death, but corporeal punishment.”²⁵

21 2 Inst 383-4.

22 3 Inst 384.

23 2 Inst 562. See also 3 Inst 143.

24 “Si autem appellans victus fuerit, gaolæ committatur tamquam calumniator puniendus, sed nec vitam amittit neque membra, licet secundum leges ad talionem teneretur si in probatione deficeret,” Bracton, II, 386.

25 Mirror bk 1, c 16.

Of course, this talionic principle rested on the idea that the false accusers “have the will to kill but do not kill,” similarly to

Those who torture a man so that he confesses to a mortal sin he has not committed, and to alleviate torment, preferring death, falsely confesses a felony. And sometimes such persons are brought to their end by the records of coroners or justices. And in like case are those by whom cripples, children, and others who cannot walk are cast and left in desert places, or in such spots they if they do not die of hunger it is no thanks to those who put them there, albeit God sends them aid... also false jurors, false witnesses... this sin is likewise committed by those who imprison folk in such places, or put them in such pain, that it can be found by inquest that they were nearer death by such evil places or pains. In three ways was God killed, for Longinus killed him in fact with the others who hung or torture him. By tongue or by word Pilate killed him, for he ordered the killing, and by will the false witnesses killed him, as did all those consenting thereto.²⁶

These different situations in which someone intended to commit homicide by indirect means, but the desired result did not happen, were all liable to the same rationale according to which “those who have the will to kill. Are to be adjudged to death for their corrupt intention, albeit they did not kill according to their purpose.”²⁷ In other words, the rationale of the talionic principle was the maxim that the will must be taken for the deed.

From a contemporary perspective, it seems that this maxim pointed towards a subjective notion of attempt. According to this view, there is no independent act of attempt separated from the mere preparation. Therefore, there cannot be an abstract concept of attempt distinguishable from the underlying substantive offence. As it happens to be, the idea of attempt is discussed in the context of the offence of homicide. Indeed, the idea of attempt is not distinguishable from murder. It was understood as a sort of murder: a murder in will or intent. After all, in all the situations enumerated in the passage from the *Mirror*, we find what constitutes the central element of murder: *malice aforethought*, defined as “when one compasseth to kill, wound, or beat another.”²⁸ The only difference with the prototypical murderous situation is that the *malicious* “plotting and compassing the death of a man by pretext of law” has not produced any result.

From this subjective standpoint, the guilty mind is the most important part of the crime, or as Coke puts it elsewhere, in ancient times “the intent of

26 *Ib.*, bk 1, c 9; see also bk 1, c 16.

27 *Ib.*, bk 1, c 16.

28 3 Inst 51.

a man, *in criminalibus*, was much respected.”²⁹It is thus the main element in determining whether someone deserves punishment. So much, that in those cases where the crime has not been consummated, the will should be taken for the deed and be punished as if the crime had been completed. Staunford, was of the same mind as Coke:

Et Nota, que en auncient temps la volunte fuist cy materiall: que il fuit repute pur le fait. Vt patet titulo Corone in Fitz. P. 15. E. 3. P. 383. ou vn compassant le mort d'auter, luy naufra cy gréeusement, que il luy lessa giser pur mort, et puy sensua, et l'auter reuiua, et non obstant, fuit aiudge felony. Eo que quant sa volunte appiert cy ouertment de luy auer tue, *Voluntas reputabitur pro facto*. Et oue ceo accorda BRACON qui dit, *In maleficiis spectatur voluntas & non exitus, & nihil interest utrum quis occidat, an causam mortis praebeat*.³⁰

It is true that in these cases there is not merely a will to commit homicide, but some steps taken towards it. Indeed, one might argue that these steps can in themselves be considered as acts of attempt. However, these acts are not independently defined. In the discussion of the maxim, the acts in execution of the crime are never described as an act requirement, but as evidence of a guilty mind. Thus, in discussing the treason of compassing the death of the king as indeed another manifestation of the maxim that the will must be taken for the deed, Coke explains that “when the las was so holden, he must *causam mortis praebere*, that is, declare the same [will] by some open deed tending to the execution of his intent, or which might be cause of death.”³¹ In other words, those acts in execution of the murderous intent are not conceived independently as acts of attempts, but as proof of that intent.

In keeping with this subjective view of attempt, Coke emphasizes the retributive rationale of the villainous judgment that in past times had been the punishment for conspiracy, according to which “the offenders convicted... shal [sic] lose ... their houses, lands, and goods shall be seised into the kings hands, and their houses and lands estrepped and wasted, their trees rooted up and erased...[because they] have conspired and plotted the death and shedding oath the blood of an innocent... [and] if they had attained the innocent, he should have lost his life, (by an infamous death) his lands, his

²⁹ 3 Inst 106.

³⁰ Staunford PC Liber 1 c 9.

³¹ 3 Inst 5.

goods, and his posterity: for his blood thereby should have been corrupted.”³² Furthermore, the subjective view of attempt can also be seen in the preventive role of the law. Thus, Coke interprets that the principle declared in the *Poulterers’ Case* to punish “the unlawful act [is] executed... to the end to prevent the unlawful act.” And that in “these cases the common law... prevents the malignant from doing mischief, and the innocent from suffering it.”³³

At the same time, there are reasons to believe that no such subjective view of attempt was actually entertained by these authors.³⁴ After all, as mentioned above, Coke believed that the original punishment for these attempts of murder by false accusations had been mitigated. This indicates that the act of attempt was also thought as something different from the completed action, which deserved a different form of punishment. Staunford was again of the same view:

Mes le ley nest issint a cest iour. Car il doit morir en fayt auant que il serra aiudge felony. Et si home ferist auter oue intent de luy bater, mes nemy a luy tuer, vncore sil morust de tiel batir, il est felony en luy que ferist: Per que a cest iour, homme peut conuerter le dit text de BRACTON, et dire, quod exitus in maleficiis spectatur, & non voluntas duntaxat.³⁵

In the same way, this interpretation of the offence of conspiracy from the point of view of the *voluntas* maxim involved a shift away from the procurement of indictment as its gist towards the purpose of indictment. As mentioned above, the relevant criminal element now was that the conspirators seek to “attaint and overthrow... [and] the death and shedding of the blood of an innocent.”³⁶ Therefore, this shift also involved that the indictment appeared not as the end of the criminals, but as a means to the real purpose that was causing someone to die. To put it in the words of another of Coke’s maxims in the report of the *Poulterers’ Case*, the false indictment is now criminal because “*quando aliquid prohibetur, prohibetur et id per quod pervenitur ad illud*.” That is to say that when the law forbids murder, it also forbids those actions by which this offence can be brought about such as a false indictment of felony. This reminds us of the interpretation that an

³² 3 Inst 143.

³³ *The Poulterers’ Case* (n 20), 56b; 73 ER 813, 814-5.

³⁴ This is the view of Francis Bowes Sayre, ‘Criminal Attempts’ (1928) 41 Harvard Law Review 821, 821-7.

³⁵ Staunford PC Liber 1 c9.

³⁶ 3 Inst 143.

objective act of attempt is criminal insofar as it is included in the definition of a crime that not only encompasses the crime but also the steps taken towards its completion.

Moreover, although these authors interpret the acts in execution of the criminal purpose as mainly proving the criminal intent, the cases they use to illustrate this idea involve more than a substantial step. As Coke puts it, this murderous will must be declared by act “which might be cause of death.”³⁷ Indeed, the cases he provides are failures in which all the necessary steps towards the commission of murder had been taken, but for some extraneous circumstance had not produced the expected result. These include examples such as when a “man’s wife went away with her avowterer, and they compassed the death of the husband, as he was riding towards the sessions of oier and terminer and gaole-delivery, they assaulted him and stroke him with weapons, that he fell downe as dead, whereupon they fled.” Another instance would be when “a youth... would have stolen the goods of his master, and came to his masters bed, where he lay asleepe, and with a knife attempted with all his force to have cut his throat; and thinking that he had indeed cut it, he fled.”³⁸ A third case was when “a man had imagined to murder, or rob another, and to that intent had become *infidiator viarum*, and assaulted him, though he killed him not, nor took anything from him.”³⁹

In sum, on the one hand, the maxim that the intent must be taken for the deed could be interpreted as a notion similar to that of a subjective attempt. Since the important element for criminal liability is the intent, it should not matter how close to consummation the perpetrator was as long as they gave away their intent. On the other hand, for Coke, not all actions in execution of that intent are to be taken into consideration, but only those as might have caused the death of the victim. Although he does not offer any abstract definition of these types of act but only a series of examples, it can be said that in these, all the necessary steps have been taken but have failed to produce the expected result. In other words, the maxim could be interpreted in one of two ways: in actions that do not necessarily amount to a crime, the intent must be considered in determining criminal liability; or, when a criminal action has failed, it should be punished as if it had been consummated because it has revealed a guilty mind.

37 3 Inst 5.

38 Ibidem.

39 3 Inst 5.

However, there is still one more interpretation that we should not omit. As mentioned above, Coke invoked that maxim to explain the first kind of high treason. Thus, he defined this offence as committed by “compassing or imagining the death of the King, Queene, Prince, and declaring the same by some overt act.”⁴⁰ Coke interpreted this offence as being an application of the maxim that the will must be taken for the deed in the context of failed homicides. However, there is a significant difference. The Treason Act 1351 makes the act of compassing or plotting the crime itself. This means that this conduct is the very act requirement of the offence, and that therefore, upon completion, the offence is consummated. The problem is that planning is a mental activity and therefore “a secret in the heart.”⁴¹ In order to prosecute it, the plan ought to “be discovered by circumstances precedent, concomitant, and subsequent.”⁴² Therefore, there should be an *overt act* that provides “direct and manifest proof, not upon conjectural presumptions, or inferences, or straines of wit; but upon good and sufficient proof.”⁴³

Under this perspective, the *overt act* is both evidence of a guilty mind and of a crime already perpetrated. However, from the point of view of the *voluntas* maxim the *overt act* appeared as evidence of a guilty mind, but had to be such an act as being in execution of the will to kill or such as it might cause someone to die. That is to say, of necessity it ought to precede the consummated crime. What characterizes an attempt, whether conceived subjectively or objectively, is that the underlying crime has not been committed. By contrast, the wide definition of The Treason Act 1351 was so broad as to cast the very planning of regicide as a crime itself. In this case, planning a crime could not be said to be *malice aforethought* since premeditation is presented as the very crime. By definition, any conduct from preparation to consummation of the plan to kill the king fell under the law.⁴⁴ However, conceptually speaking, these conducts happened after the crime had been committed as defined in that statute.

Although this view does not bear directly on the reasoning in the *Poulterers' Case*, it is reflected in the note added by Coke to the report specifying

40 3 Inst 3.

41 3 Inst 14.

42 3 Inst 6.

43 3 Inst 12.

44 Albert Kiralfy, ‘Taking the Will for the Deed: The Mediaeval Criminal Attempt’ (1992) 13 The Journal of Legal History 95, 95.

the requirements that such confederacies that might be punished before execution must fulfill. The first condition was that the confederacy “ought to be declared by some manner of prosecution, as in this case was, either by making bonds, or promises one to the other.”⁴⁵ As discussed earlier, when Coke wrote about the maxim that the will must be taken for the deed in connection to homicide, the examples he provided were always cases of failures. By contrast, in this note he considers mere preparations as being evidence of a plot. Indeed, the very agreement appears in that passage as declaratory of the plot. Thus, *conspiracy* or *compassing* is the crime itself. This interpretation would prove to be consequential later on when the case began to be cited as authority for the principle that in cases involving allegations of conspiracy, the agreement itself was the gist of the offence, and that therefore the offence was completed regardless of whether the rest of allegations amounted to a wrong or not. Rather, other actions taken in execution of the conspiracy or agreement were taken as a sufficient overt act in evidence of that conspiracy or agreement.

Going back to the reasoning in the *Poulterers' Case*, it can be concluded that Coke shared the view that an unjustified false accusation of felony was a form of indirect murder. Furthermore, he also believed that the ancient common law was guided by the doctrine that the will must be taken for the deed in cases of failed murder. It followed that in the *Poulterers' Case*, there was a failed attempt of committing murder under the color of the law. This is consistent with the insistence on the intent of the defendants to have Stone hanged in the depositions taken by the Star Chamber. Further evidence that this was the view of the Star Chamber can also be inferred from the punishment for conspiracy at the Star Chamber mentioned in the report: “Hil. 37 H. 8. in the Star-Chamber a priest was stigmatized with F. and A. in his forehead, and set upon the pillory in Cheapside, with a written paper, for false accusation. M. 3 & 4 Ph. & Ma. one also for the like cause fuit stigmaticus with F. & A. in the cheek, with such superscription as is aforesaid.”⁴⁶ This punishment appears in most of the abovementioned cases decided in the Star Chamber. It is clearly inspired by the Roman punishment for the calumniator of branding the letter K on his forehead. This implies that the councilors of the Star Chamber drew an analogy with calumny. And this offense was first

Having said all of this, it seems that Coke, or the Star Chamber for that

45 *The Poulterers' Case* (n 20) 57 a; 77 ER 813, 815.

46 *The Poulterers' Case* (n 20), 56b 73 ER 813, 814-5.

matter, did not intend to lay down a general principle in this case. It is true that the principle was expressed with general words such as that conspiracies were punishable before execution at common law. But, as we have tried to argue, the idea behind this principle is that a false accusation is a form of homicide, and that according to the doctrine that the will must be taken for the deed, a failed or thwarted false accusation is an attempt of murder. Thus, the application of the principle is limited to the context of the perversion of justice.

This narrow reading can be seen in the note Coke added to the report of the case detailing the requirements that “these confederacies, punishable by law, before they are executed” must meet. Other than the first one already mentioned, they are: “2. It ought to be malicious, as for unjust revenge, &c. 3. It ought to be false against an innocent: 4. It ought to be out of Court voluntarily.”⁴⁷

The second and third requirements are the same subjective grounds that granted an action upon the case in the nature of conspiracy: ill will and falsehood. These conditions are inconsistent with the former requirement since if the punishable thing is the plot or purpose of the agreement, as revealed by the written agreements, it is redundant to say that it needs to be malicious and false. The fourth requirement also seems to be framed upon the action on the case. It narrows the scope of the principle by granting immunity to those who are acting under a judicial office or who are bound by oath and court proceedings to act for the king: judges of record and jurors. This requirement was indeed in affirmation of the principles recently laid down for the proceedings by writ and indictment of conspiracy by the Star Chamber in *Floyd v Barker* (1608).⁴⁸

47 *The Poulterers' Case* (n 20), 56b 73 ER 813, 814-5.

48 12 Co Rep 23-5; 77 ER 1305-8.

This Edition

This edition of the *Poulterers' Case* is based on the transcript of the records of the proceedings before the Star Chamber kept in The National Archives of the United Kingdom. The documents of this case are bound in a volume collected in the series STAC 8 Court of Star Chamber: Proceedings, James I. By all appearances, the bill of complaint and subsequent pleading have not survived. Only proof in the form of written interrogatories and depositions are part of the bounded volume. Trial in the Star Chamber was based on oral argument over these written testimonies and written pleading, and judgments have not survived.¹ However, this information is supplemented by the reports of the case.

The main source for the oral argument is Coke's printed reports. Additionally, Moore's and Brownlow & Goldsborough's have been reproduced from the English Reports' edition including cross-references to cases citing the *Poulterers' Case*. Additionally, a manuscript report located in the Harleian collection of the British Library has been transcribed and included too.²

The documents in the bounded volume have been foliated in pencil, with the exception of the first one. Reference to the folio number is placed within square brackets. Blank pages are not reproduced. Where the text is discontinued it is indicated within square brackets. Sometimes, folio numbers jump ahead, breaking the sequence numbers, which suggests that there may be missing documents.

Ease of reading has been privileged over paleographical accuracy. Since marginal notes appear to have been made by the same hand to correct the information in the original text, these are not indicated. Their transcription has been accommodated into what seemed the appropriate places. Passages interpolated seem likewise to amend mistakes made by the scribe, therefore they are integrated into the original text without further warning. Words and passages crossed out have not been transcribed for identical reasons. Blank

¹ See Guy (n 456) 45–7; The National Archives, 'Court of Star Chamber Records 1485-1642' (*The National Archives*) <<http://www.nationalarchives.gov.uk/help-with-your-research/research-guides/court-star-chamber-records-1485-1642/>> accessed 9 January 2021.

² I wish to thank Professor Ian William for his invaluable help that illuminated my way through this archival material.

spaces in the original document are not preserved. Where depositions were signed with a mark, this is indicated within square brackets.

Nevertheless, spelling, punctuation and orthography have neither been standardized nor modernized. This encompasses names and family names, as well as toponyms. Irregularities and inconsistencies in spelling have been kept. A period mark has been added at the end of every answer to a fresh interrogatory—replacing the document’s original mark—to indicate the end of a paragraph and the beginning of a new one.

Abbreviations and contractions are extended in square brackets. Words are extended in keeping with how they are written out elsewhere in the document. However, since spelling is not uniform, extensions have been standardized according to the most prevalent form in the documents. Therefore, they do not necessarily display how the scribe would have written the word in full. Passages in Latin have also been extended to the best of the editor’s knowledge.

Elements that are not part of the original document are placed within square brackets. This includes the editors’ surmises where the text was hard to decipher or incomplete due to missing passages. Where conjecture was not possible because the text was illegible or the document torn, it is indicated within square brackets.³

3 Supplementary data regarding the sources of the crime of conspiracy can be found on <https://doi.org/10.21950/VGZHYT>.

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- A Bill [as amended in committee] to Amend the Law of Conspiracy HC Bill 1873 [263] (36 & 37 Vict)
- A Bill to Amend the Law of Conspiracy as Applied to Masters and Servants HC Bill 1873 [190] (36 & 37 Vict)
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- An Act for Regulating the Journeymen Taylors Within the Weekly Bills of Mortality 1721 (7 Geo 1 st 2 c 13)
- An Act to Repeal the Laws Relating to the Combination of Workmen, and to Make Other Provisions in Lieu Thereof 1825 (6 Geo 4 c 129)
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- 11 DE Code s 511 (2019)
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Law Reports

***813** *The Poulterers' Case* (1611)

9 Co Rep 55b, 77 ER 813

[55 b] Where several combine to charge a man with robbery, and to cause him to be indicted, &c. and in execution of their conspiracy, they cause him to be apprehended, &c. and to be bound to appear at the assizes, and then they prefer a bill of indictment for robbery against him, which indictment is ignored by the grand jury, the party so grieved may have an action against them. Resolved,

1. At the common law, one imprisoned for the death of another, &c. when *prima facie* by the law he was not bailable, might have a writ *de odio et atiâ* directed to the sheriff, that he, &c. should enquire if the prisoner was detained in prison *odio et atiâ*, or whether he was guilty of the offence.

2. If upon the said writ *de odio el atiâ*, the jury found him not guilty, a writ *de ponendo ballium* issued to the sheriff; which writ recites the inquisition and commands the sheriff to bail him if he should find twelve sufficient bail of the county.

*No writ of conspiracy lies, unless the party is indicted and lawfully acquitted; but a false conspiracy is punishable although nothing he put in execution. *

Note. *Confederacies, punishable by law, before they are executed, ought to have four incidents: 1. The confederacy ought to be declared by some manner of prosecution, either by making bonds or promises one to the other. 2. It ought to be malicious. 3. False. 4. Voluntary.* S. C. Moor 813.

Mich. 8 Jac. Regis, the case between Stone, plaintiff, and Ralph Waters, Henry Bate, J. Woodbridge, and many other poulterers of London, defendants, for a combination,¹ confederacy, and agreement betwixt them falsly and maliciously to charge the plaintiff (who had married the widow of a poulterer in Gracechurch Street) with the robbery of the said Ralph Waters, supposed to be committed in the county of Essex, and to procure him to be indicted, arraigned, adjudged, and hanged, and in execution of this false conspiracy, they procured divers warrants of justices of peace, by force whereof Stone was apprehended, examined, and bound to appear at the assises in Essex; at which assises the defendants did appear, and preferred a bill of indictment

1 Cr. Car. 15, 16. 3 Inst. 143. 2 Roll. Rep. 258. 2 Bulst. 271. 1 Jones 93. Latch. 79, 80. Hut. 49. O. Bendl. 124. Palm. 315. 1 Roll. 110, 111, 112. Hard. 196. 2 Inst. 561, 562.

of robbery against the said plaintiff; and the Justices of Assise hearing the evidence to the grand jury openly in Court, they perceived great malice in the defendants in the prosecution of the cause; and upon the whole matter it appeared, that the plaintiff the whole day that Waters was robbed, was in London, so that it was impossible that he committed the robbery, and thereupon the grand inquest found² *ignoramus*. And it was moved and strongly urged by the defendants' counsel, that admitting this combination, confederacy, and agreement between them to indict the plaintiff to be false, and malicious, that yet no action lies for it in this Court, or elsewhere, for divers reasons. 1. Because no writ of conspiracy for the party grieved, or indictment or other suit for the King lies, but where the party grieved is indicted, and *legitimo modo* [56 a] *acquietatus*, as the books are³ F. N. B. *814 114. b. 6 E. 3. 41. a. 24 E. 3. 34. b. 43 E. 3. Conspiracy 11. 27 Ass. p. 59. 19 H. 6. 28. 21 H. 6. 26. 9 E. 4. 12., &c. 2. Every one who knows himself guilty, may to cover their offences, and to terrify or discourage those who would prosecute the cause against them, ^osurmise a confederacy, combination, or agreement betwixt them, and by such means notorious offenders will escape unpunished, or at the least, justice will be in danger of being perverted, and great offences smothered, and therefore, they said, that there was no precedent or warrant in law to maintain such a bill as this is. But upon good consideration, it was resolved that the bill was maintainable; and in this case divers points were resolved.

1. That at the common law (which not only favours the life, but also the liberty of a man, and freedom from imprisonment), when a man was imprisoned *pro morte hominis*, &c. where prima face by the law he was notailable, and *ne detineatur diu in prisonâ*, sc. till the coming of the justices in eyre, as appears by the statute William 1. cap. 11. the prisoner in such case might have a writ *de*⁴ *odio et atia*, directed to the sheriff, *quod*⁵ *assumptis secum custodibus placitorum Coronae in pleno comitatu per sacrament' proborum & legalium hominum*, &c. *inquir' utrum A. captus & detentus in personâ*, &c. *pro morte W. unde rettatus (i. accusatus) est, rettatus sit odio & atia, an eo quod inde culpabilis sit, & si odio et atiâ, tunc quo odio et atiâ*, &c. *nisi indictatus vel appellatus fuerit coram justic' nostris ultimo itinerantibus in partibus illis, et pro hoc captus & imprisonatus*, &c. by which it appears, that if the prisoner

² 1 Jones 94. 1 Vent. 305. 1 Salk. 174.

³ F. N. B. 114. d.

⁴ 2 Inst. 42, 43. 5 H. 7. 5. a. Stamf. Pl. Cor. 77. b.

⁵ 2 Inst. 42. Vide Regist. f. 133. b.

be indicted or appealed, and by force thereof imprisoned, the said writ being but a surmise lay not against the said matter of record.

2. It is to be observed, that if upon the said writ *de odio et atia*, the jury found him not guilty, yet the sheriff with the coroners, or any of them, could not bail him; but then should issue forth a writ *de ponendo in ballium* to the sheriff, which writ recites the inquisition, by which the prisoner is found not guilty, or that he did it *se defendendo, et non per feloniam, ex malitiâ precogitatâ, vel per infortunium, tibi praecipimus, quod si praed' A. invenerit tibi 12 probos et legales homines de comit' tuo, &c. qui eum manucapiant habere coram justiciariis nostris ad primam assisam, etc. ad standum, etc. tunc ipsum A. etc. praed' 12 interim tradas in ballium*. By which it appears, that in such case the sheriff without a writ could not bail him, nor bail by writ under the number of 12 persons who would bail him. [56 b] *Vide* Magna Charta, cap. 16. 26 W. 1. c. 11. Glouc' c. 9. W. 2. c. 29. But now this writ *de odio et atia* is taken away by the statute of 28 E. 3. c. 9. *vide* Registr' *ubi supra*, Stamf. Pl. Cor. 77. g. *vide* Bracton, lib. 3. 121. b.

3. It is to be observed, that there was means by the common law before indictment to protect the innocent against false accusation, and to deliver him out of prison: and as odium in the said writ signifies hatred, so *acia* or *atia* signifies malice, because *malitia est acida*, *i.* eager, sharp, and cruel.

And it is true that a writ of conspiracy lies not, unless the party is indicted, and *legitimo modo acquietatus*, for so are the words of the writ; but that a false conspiracy betwixt divers persons shall be punished, although nothing be put in execution, is full and manifest in our books; and therefore in 27 Ass. p. 44. in the articles of the charge of enquiry by the inquest in the King's Bench, there is a nota, that two were indicted of confederacy, each of them to maintain the other, whether their matter be true, or false, and notwithstanding that nothing was supposed to be put in execution, the parties were forced to answer to it, because the thing is forbidden by the law, which are the very words of the book; which proves that such false confederacy is forbidden by the law, although it was not put in use or executed⁶. So there in the next article in the same book, inquiry shall be of conspirators and confederates, who agree amongst themselves, &c. falsly to indict, or acquit, &c. the manner of agreement betwixt whom, which proves also, that confederacy to indict or acquit, although nothing is executed,

6 Moor 814. Cr. Jac. 8. W. Jon. 94. 1 Salk. 174. Lucas 219, &c. ib.

is punishable by law⁷: and there is another article concerning *815 conspiracy betwixt merchants, and in these cases the conspiracy or confederacy is punishable, although the conspiracy or confederacy be not executed; and it is held in 19 R. 2. Brief 926. a man shall have a writ of conspiracy, although they do nothing but conspire together, and he shall recover damages, and they may be also indicted thereof. Also the usual commission of *oyer* and *terminer* gives power to the commissioners to enquire, &c. *de omnibus coadunationibus, confederationibus, et falsis alligantiis*; and *coadunatio* is a uniting of themselves together, *confoederatio* is a combination amongst them, and *falsa alligantia* is a false binding each to the other, by bond or promise, to execute some unlawful act: in these cases before the unlawful act [is] executed the law punishes the coadunation, confederacy or false alliance, [57 a] to the end to prevent the unlawful act, *quia*⁸ *quando aliquid prohibetur, prohibetur et id per quod pervenitur ad illud: et affectus puniter licet non sequatur effectus*; and in these cases the common law is a law of mercy, for it prevents the malignant from doing mischief, and the innocent from suffering it. Hil. 37 H. 8. in the Star-Chamber a priest was stigmatized with F. and⁹ A. in his forehead, and set upon the pillory in Cheapside, with a written paper, for false accusation. M. 3 & 4 Ph. & Ma. one also for the like cause *fuit stigmaticus* with F. & A. in the cheek, with such superscription as is aforesaid. *Vide Proverb*¹ 1. *Si te lactaverint peccatores et dixerint, veni nobiscum ut insidiamur sanguini, abscondamus tendiculas contra insonem frustra, &c. omnem pretiosam substantiam reperiemus et implebimus domus nostras spoliis, &c. Fili mi ne ambules cum eis, &c. pedes enim eorum ad malum currunt, et festinant ut effundant sanguinem*. And afterward upon the hearing of the case, and upon pregnant proofs, the defendants were sentenced for the said false confederacy by fine and imprisonment. *Nota* reader, these confederacies, punishable by law, before they are executed, ought to have four incidents: 1. It ought to be declared by some manner of prosecution, as in this case it was, either by making of bonds, or promises one to the other : 2. It ought to be malicious, as for unjust revenge, &c. 3. It ought to be false against an innocent: 4. It ought to be out of Court voluntarily¹⁰.

7 Vid. acc. *Rex v. Kimberly*, 1 Lev. 62. *Rex v. Bragg*, 2 Burr. 998. *Rev v. Rispal*, 3 Burr. 1320. *Rex v. Best*, 2 L. Raym. 1167. S. C. [6 Mod. 185. 1 Salk. 174. Holt. 151]. Hawk. P. C. Book. 1. cap. 72. § 2.

8 2 Inst. 48. Hardr. 146.

9 Moor 814.

10 It is generally said, that a plaintiff cannot have a writ of conspiracy in the Common Law Courts, unless he has been indicted, and lawfully acquitted, so as to be able to plead

auter fois acquit to a second indictment. Mr. Serjeant Hawkins contends, Hawk. P. C. B. 1. cap. 72. § 2., that an acquittal by verdict is not always necessary to maintain such a writ. The present case can hardly be considered as an authority, inasmuch as it was, as appears from the report in Moor 813, a proceeding in the Star Chamber, and the particular form of action does not appear. The writ of conspiracy has now given way to an action on the case for a malicious prosecution, which action lies for a false and malicious prosecution for any crime, whether capital or not, though it do not proceed to an actual indictment or appeal ; and the same damages may be recovered in such action as in a writ of conspiracy. 1 Hawk. P. C. 445. edition Curw. and the cases there cited. 2 Selw. N. P. 1049. 6th edition. And this action on the case may be brought, although the indictment was preferred *coram non Judice*, 1 Roll's Ab. Action sur le Case pl. 9. So also it may be brought, although the indictment may be defective, for whether the indictment be good or bad, the plaintiff is equally subjected to the disgrace of it, and put to the same expense in defending himself against it. *Wicks v. Fentham*, 4 T. R. 247. *Pipypd v. Hearn*, 5 Barn. & Ald. 634. S. C. 1 Dow. & Ryl. 266. So also although the indictment be ignored. *Payn v. Porter*, Cro. Jac. 490. This action lies as well, when the party has been acquitted by verdict upon an information as upon an indictment; but it is essentially necessary to shew that the original prosecution is terminated. *Lewis v. Farrell*, 1 Strange, 114. *Fisher v. Bridow*, 1 Dougl. 215. *Morgan, v. Hughes*, 2 T. R. 225. And it seems to be doubtful, whether the entry of a *nolle prosequi*, by the Attorney General, is such a termination of the suit as will entitle the party prosecuted to his action; proof of such an entry will not satisfy an allegation that the plaintiff was lawfully acquitted. *Goddard v. Smith*, 6 Mod. 261. S. C. 1 Salk. 21. The old action for a conspiracy, must have been brought against two at least, for *816 the gist of the action is the conspiracy, F. N. B. 114. D. 116. K. And if one only had been found guilty, or if all except one had been discharged by matter of law, the action failed. F. N. B. 115 F. But an action on the case may be brought against one only, *Mills v. Mills*, Cro. Car. 239. And if it be brought against two or more defendants, and a verdict be found for all the defendants, except one, yet the plaintiff will be entitled to judgment, although the declaration state, that the defendants *per conspirationem per eos habitam, &c.* *Price v. Crofts*, T. Raym. 180. *Pollard v. Brans*, 2 Show, 50. Serjeant Williams's note (4) *Skinner v. Gunton*, 1 Saund. 228 d. The grounds of the action for a malicious prosecution, are the malice of the defendant either expressed or implied, *Purcell v. Macnamara*, 9 East, 361.; want of probable cause, *Farmer v. Darling*, 4 Burr. 1974. Bull, N. P. 14. *Byne v. Moore*, 1 Marsh, 14. S. C. 5 Taunt. 187. *Nicholson v. Coghill*, 4 Barn. & Cress. 23.; and an injury sustained by the plaintiff, either in his fame and credit, in his person, as by imprisonment, &c. or in his property, as by the expenses of the prosecution. *Saville v. Roberts*, Carth. 416. S. C. [1 L. Raym. 374. 1 Salk. 13. 5 Mod. 394. 405]. *Byne v. Moore*, *Pipet v. Hearn*, *ubi sup.* But it is sufficient, if malice and want of probable cause be proved as to some of the charges contained in the indictment, though others may be true. *Reed v. Taylor*, 4 Taunt. 616.

Stone v Walters & Auters (1611)

Moore (KB) 814, 72 ER 923

Nota hoc Termino. En un suit in Camera Stellata p[ur] Stone vers un Walter & divers auters Poulterers de London, le case fuit que Walter, esteant rob, accuse Stone d[']estre le party que [814] luy rob, & apres devant le Greencloth lou Walter fuit convent pur cest false accusacon (quia Stone fuit un purveyor pur coles & un del scullery le Roy.) Walter retract son accusation disant que il fuit mistaken, car un home poit estre semble al un auter. Et uncore quia ap[re]s Stone ne fuit satisfy ove ceo, mes arrest Walter en un acc[io]n sur le case pur les parols, Walter arreare luy accuse del felony, per que il fuit bound over as Sessions del grand Assizes en Essex: a quel lieu les Poulterers luy accompany & ascuns de eux disont al bar que Walter fuit un honest man ov[er]tm[en]t en le hearing de plusors & des Judges, al temps q[ue] les Judges fueront e[n] le hearing del evidence ap[er]tm[en]t done al bar sur le preferring del inditement. Et Walter Jure la directment que Stone fuit le party que luy rob. Uncore sur les circumstances del case apparant, les Jurors trouvent un ignoramus, per que Stone nunq[ue]s fuit indict, ne puissoit estre loyalment acquit. Unc[ore], pur le conspiracy de luy accuser, touts les def[endants] fuer[ont] fine, & Walter grievousment al pillory en 3 lieux, & destre mark en le face ove 2 letters, F & A, pur un false accuser. Et Cook Chiefe Justice del Common Pleas, & Flemming Chief Justice, & Egerton Chancellor touts agreeont, que per le commission del peace & oyer & terminer, tiels conspiracies sont punishable per indictment al suit le Roy, coment que le party m[esme] ne poit aver ascu[n] acc[io]n; & sic auxi finable on le Star-Chamber. Et nota que fuit resolve en cest case que lou Walter fuit l'apprentice d[']un Bate un auter des def[endants] que Bate en un acc[io]n fur le case port v[er]s le dit Walter puissoit assets loyalm[en]t maintenir Walter ove argent, &c. Vide 21 H. 7. 40.

Stone v Bates (1611)

1 Brownl & Golds 9, 123 ER 631

A man may well incourage one that was robbed, to cause the felon to be indicted, and accompany him to the assizes, and this shall be lawful for to do, without incurring the danger of an action upon the case, upon conspiracy; but if he knew that he was not robbed, then he is in danger of the action upon the case.

Stone vs. Walters et alt. Poulterer's Case (1611)

8 Mich. Jac.

Harley 7314, ff. 92 [18]

Lond[on]

The def[endan]t Walters was robbed and preferred an Indictm[en]t against the pl[ain]t[iff] for the Robbing and Ignoramus found thereuppon.

The def[endan]t Walters after he did deny the pl[ain]t[iff] had robbed did afterwards accuse the pl[ain]t[iff] for the same Robbery and sweare it against him att the Assizes in Essex and [illegible] in the Court in his answer.

The pl[ain]t[iff] Proved he was not the man Walters was fined a 1000th[k], and to be sett on the pillory in 4 severall places that be seared in the [forehead] w[i]th the letters [F] and [A].

The rest of the def[endan]ts were fined 200th a piece & bound to their good behavior.

Records of the Star Chamber

Stone v Walters (1611)

The National Archives: STAC 8/259/31

[unfoliated page] [Depositiones] Capt[ae] xxi^o die Junij Anno R[e]gis Jacobi 7^o] Ex p[ar]te Thom[a]s Stone vs Ra[p]he Walters et alios

Iohn Aveye of Ashdenn in the Countye of Ayden Essex gent[leman] beinge sworne and Examined &c.

1 To the Firste Interr[ogatorie] This depon[en]t saieth That beinge at the Assizes at Chemfford when the sayed Stone was indicted uppon a supposed robbery com[m]itted uppon Raphe Waters seruante vnto Iohn Woodbridge, this depon[en]t was tould then by them and the sayed Henry Bate, that there was then a suite dependenge betwene the sayed Raphe Waters (as he rem[em]b[er]e[r]e[th]) and the Compl[ainan]t, in the Guildhall at London, w[hi]ch suite was to haue a tryall the Thursday then next followening The w[hi]ch suite yf it had not ben comenced, the sayed Compl[ainan]t had never ben called in question uppon the same indictem[en]t at Chemfford And further vnto this Interr[ogatorie] hee Cannot depose.

2 To the second Interr[ogatorie] T[h]is depon[en]t is not Exa[m]i[n]ed by direc[ti]on.

3 To the third Interr[ogatorie] this depon[en]t saieth that at the tyme afore-sayed the sayed def[enda]ts Henry Bates Raphe Waters and Iohn Woodbridge did confesse and acknowledge that they had mistaken the s[ai]d Stone, and thereby had chardged him w[i]th the robbinge of the s[ay]ed Waters: And vpon that speache and occasyon the sayed Bates & Woodbridge earnestlye entreated this depon[en]t to bee a meanes To the s[ai]d Compl[ainan]t not further to p[ro]sequete the sayed sute in the Guildhall: Vppon w[hi]ch entreatye this depon[en]t wente w[i]th them and founde oute the s[ai]d Compl[ainan]t w[i]thin a smale space after the matter of the sayed indict[me]nt had ben h[e]ard at Chenfford, and talked w[i]th him thereaboute, and afterwards did write vnto the s[ai]d Stone at their requeste a l[ett]re vnto that purpose, the sayed Bate and Woolbridge willinge him to write vnto the s[ay]ed Compl[ainan]t that the sayed Waters should acknowledge his faulte and submitte himself.

4 Et c[etera] To the iiij v: 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 and 24 Interr[ogatories] This depon[en]t in not Examined by direc[ti]on.

25 To the 25 Interr[ogatorie] This depon[en]t saithe that he was pute at the

Assizes in Essex when the sayed Raphe Waters did giue in Evidence vppon his oathe vnto an Indictm[en]t openlye at the Barr, before the whole Courte and greate inqueste, That the Compl[ainan]t Stone had robbed him in that Countye, in the heighe waye neare vnto a Towne called Vgley in the same Countye, of a Cloak a hatt certen cloathe and xxxs in money: In w[hi]ch Euidence hee well rem[em]b[e]reth that the s[ai]d Waters did denye that there was a graye horse in the Companye of those that soe robbed him that anye of the robbers roade on,; [sic] whereas this depon[en]t well knowethe, that in the discrip[i]on made for hue and crye, of the p[er]sons and horses by the sayed Waters direc[ti]on, att this depon[en]ts house, and in his presence w[i]th other of his neighbors, ther[e] was a graye horse satt downe and mencyoned whereon one of these robbers did ride And further vnto this Interr[ogatorie] hee cannot depose, saying that my sayed discription of the hue and crye the sayed Waters affermed that he had a gowne taken awaye frome him of £ vj price w[i]th a fardell of geare for Mris Weeks of Newporte, & in his s[ay]ed Endeuce[ment] he made noe declarac[i]on of anye such.

26 To the xxvj Interr[ogatorie] This depon[en]t saiethe that hee doethe knowe that soone after the sayed Compl[ainan]t was cleared vppon the s[ay]ed indict[eme]nt at the sayed Assizes and that this depon[en]t had taulked w[i]th the s[ay]ed Stoane To the purpose declared in this deposic[i]on vnto the third Interr[ogatorie], the sayed Bate and Woodbridge Mrs vnto the sayed Waters, came vnto his depon[en]t and earnestly laboured w[i]th him that hee would write, vnto the sayed Compl[ainan]t that hee would surcease his suit in the Guilde Hall againste the sayed Waters, and that hee the sayed Waters should submitte himself and vpon his knees acknowledge before the Greenclothe, openly in the Guildhall where the s[ay]ed Cause depended, and amongeste his neighebers, in the p[ar]ishe Church, that hee the sayed Waters had mistaken the s[ay]ed Stoane wronged him in falsely chardging him w[i]th the s[ay]ed robbery [unfoliated page] robberye [sic], for the w[hi]ch hee was hartelye sorrye, the sayed B[ates and] Woodbridge then acknowledginge that they verylie beleived the s[ay]ed Compl[ainan]t was so wronged: After w[hi]ch speaches had broughte vnto this depon[en]t the sayed Waters, whoe befo[re] this depon[en]t vppon his knees, acknowledged that hee had wronged an[d] mistaken the Compl[ainan]t, as afores[ay]ed, and that hee was th[erefore] hartelye sorye, and that hee would submitte him selfe and as his M[ai]sters had promised, acknowledge his faulte, in all [or] anye the places aforenamed, then also earnestlye entreat[yed this] depon[en]t to write vnto the s[ay]ed

Compl[ainan]t and to that purpos[e] to bee a meanes to pacyfye the sayed Stone: Whe[revnto] this depon[en]t wrote his l[ett]re vnto the sayed Compl[ainan]t according alsoe at their entreatye hee did p[ro]cure one Gladwyne heighe Constab[le] to write to that purpose also vnto the s[ai]d Mr Stone, whoe as hee hath affirmed vnto his depon[en]t did soe write.

27 To the xxvij Interr[ogatorie] this depon[en]t saiethe, he cannot dep[ose].

28 To the xxvijth Interr[ogatorie] This depon[en]t cannot further dep[ose] otherwise then hee hathe before deposed vnto the first Int[errogatorie].

29 et c: To the 29 30 31 32 33 and 34 Interr[ogatorie] this depon[en]t is no[t] Examined by direc[ti]on.

Iohn Avery

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[f1 r.] [Depositiones] Capt[ae] 3[^o] [Die] Julij 1609 sup[er] Inter[rogatoria] ex [par]te Tho[me] Stone Quer[entis] ministr[ata]

Elizabethe Bromeley of the p[ar]ishe of S[ain]c[t]e Peters Crowne Hill Landon [sic] Spinster aged xxvij years or thereabouts sworne and examined deposethe and saiethe

To the First Interr[ogatorie] she this depon[en]t saiethe she doth very well knowe t[ha]t the Compl[ainan]t after such tyme as he did marry w[i]th Alice Pigborne the widdowe of Iames Pigborne deceded in respect both of sondry debtes owinge To the said Iames in his life tyme and after his deathe To the said Alice his widdowe remayningue in some of the def[end]ants hands for recov[er]ye whereof the Compl[ainan]t was then strayned when w[i]th faire and quiett meanes he coulde nott obtayne att their hands to arrest and followe suite vntill they were enforced to come and compounde w[i]th the Compl[ainan]t for the same the names of w[hi]ch of the def[endan]ts that so stooode indebted and were sued were Edward Leake, Iohn Vowell, Allen Baker, Thomas Moyse, Richard Keyes, and others defend[an]ts w[hi]ch sev[er]all suites were Dependenge some Fower, some Five, and some Sixe yeares nowe past or thereabouts sithence w[hi]ch tyme of the said sev[er]all suites the said defend[an]ts and others defend[an]ts of their societie and trade have so much s[us]p[ec]ted att, maliced and borne such evill will To the Compl[ainan]t and to his wiffe as they have made all the meanes they can to detracte and hinder them both of Creditt and wares in the Poulters trade, And moreover they the saide de-

fend[an]ts have vowed and p[ro]tested th[a]t they woulde enf[o]rce them the Compl[ainan]t and his wiffe to flye Gracious Streete and manie more threatening words to that or the like in effecte And the Cause why she knowethe the same to bee trewe is for that they have taken both the Compl[ainan]ts wares from his wife w[i]thout money or other satisfacc[i]on and in despightfullnes taken over the Compl[ainan]ts mother in lawes heade [grounds] of Rabbetts and Connyes worthe Fiftye pounce a yeare (above all Charges borne) from her and doth what in them lyethe to debarr and hinder her of anie benniffitt of that trade. And more to this Interr[ogatorie] she Cannott say.

To the 4th Interr[ogatorie] she this depo[nen]t saieth that shortlie after the said Walters Hakes and Ioy and others def[e]nd[an]ts dwellinge in Gracious Streete and els[e] where in London did give out speches that Walters the defend[an]t had bene robbed and that the Compl[ainan]t was the [f1 v.] man that robbed him, and gave out further speches that the Compl[ainan]t was a theife and A gentleman Theife or words to that or the like effecte And more to this Interr[ogatorie] she cannott depose.

To the 7th Interrogatorie this depo[nen]t saieth th[a]t she doth well knowe th[a]t after the defend[an]t Walters was brought before the officers of his Ma[jes]ties Comptinge hause by the Compl[ainan]ts weornes for Slaundringe him the Compl[ainan]t as aforesaid and that the Compl[ainan]t had arrested some others of the defend[an]ts in London for their like slanderous speches vsed against the Compl[ainan]t (that is to say) for Callinge the Compl[ainan]t t Theife and gentleman Theife and for sayinge that the def[endan]t Walters had bene robbed and that the Compl[ainan]t was the man that robbed him And moreover this depo[nen]t did heare Foulke Bromley say and affirme that some of the def[endan]ts did resorte vnto Walters after the Compl[ainan]t had arrested them and p[er]suaded Walters to stande vnto his accusac[i]on of the Compl[ainan]t as before he had spoken conc[er]ninge the said supposed Robberye, or els[e] if Walters coulede nott so doe such of the def[endan]ts as were arrested att the Compl[ainan]ts suite for so vsinge the said, slanderous words woulde bee vndone and smarte for vtteringe them words [sic] out of Walters mouthe The names of the d[e]f[endan]ts that so p[er]suaded Walters to stande vnto his words of accusinge the Compl[ainan]t as the said Falke Bromeley tolde this deponent were Nicholas Kefford, and Will[ia]m Birte. Butt whether the said Falke will affirme the same againe in respecte he is servant sithence vnto Kefford she this depo[nen]t cannott tell and futher or more to this Interrogatorie she this depo[nen]t cannott depose.

To the 8th Interrogatorie she this depo[nen]t cannott depose savinge that she well reme[m]brethe and knwethe that the M[aiste]r and Wardens of the Companie of Poulters did sende their Bedle twice for the said Margory Bro-meley to come before them att their hall or place of their then assembly, but what they required att her hands she this depo[nen]t knwethe nott nor was there pute before them w[i]th her nor further to this Interrogatorie Cannot depose.

[f2 r.] To the 9th Interr[ogatorie] this depo[nen]t saiethe that after the said defend[an]ts assemblies att Poulters Hall even the very same day beinge Monday the said def[endan]ts and others defend[an]ts did p[ro]cure A warrant from A Iustice of peace in London for apprehenc[i]on of the Compl[ain-an]t for the said supposed robbery & whereof the defend[an]t Walters before accused him And the next day after beinge tewsdai the defendt Walters and one Conger then A Constable w[i]th others of the def[endan]ts came To the Compl[ainan]ts howse very earlie in the morninge & apprehended the Compl[ainan]t by vertue thereof and Conveyed him before S[i]r Stephen Soame A Iustice of peace for the said Cittye of London the said Walters and Conger the Constable beinge them accompanied w[i]th divers of the defend[an]ts And more to this Interr[ogatorie] she this depo[nen]t Cannott depose.

To the xiiijth Interr[ogatorie] this depo[nen]t saithe that she doth knowe and well remember vpon the said Tewsdai and w[i]thin one quarter of an how-er after that the Compl[ainan]t was so carryed before S[i]r Stephen Soame kn[ight] by cullour of the said warrant Will[ia]m Brit def[endan]t and M[aiste]r Warden of the s[ai]d Companie of Poulters, did come into the Compl[ainan]ts shopp and after into his hall, and demaunded first of the Compl[ainan]ta S[er]vants (this depo[nen]t beinge one) what goods the Compl[ainan]t had, And afterwarde the said Brit comme To the Compl[ainan]ts wieffe and To the said Mris Bromeley and made the like inquirye And the said Brit did say that he was assured that the house was the said Mris Bromeleys but the goods were the Compl[ainan]ts and willed the Compl[ainan]ts wieffe and S[er]vants to looke vnto ytt for the matter was fowled enoughe or words to that effecte And futher the said Brite then further said and p[ro]tested [f2 v.] that if the Compl[ainan]t had come vnto them (meaninge the Companie of Poulters) and desired them to have taken up the matter they woulde have ended the Cause And more to this Interr[ogatorie] this deponent Cannot depose.

To the xiiijth Interr[ogatorie] this depo[nen]t saithe that the s[ai]d defend[an]

t Birt did will the said Margerye Bromeley that yf she had annie goods in the Compl[ainan]ts howse to looke vnto ytt bycause the howse was hers but the goods were the Compl[ainan]ts or to that or the like effecte for the Cawse was so fowle And badd on the Compl[ainan]ts p[ar]te as he woulde nott for one hundred pounds and an £ C have the like matter against him as was against the Compl[ainan]t for the saide Cause that the Compl[ainan]t was so apprehended all w[hi]ch speches and words of the said Birte (the Compl[ainan]ts wiffe beinge greate w[i]th Childe) and the said Mrs Bromeley her mother so farr distempe[re]d and affryghted that her Frende expected and vntimely deliv[er]ye of the one and did indeede much amaze and distracte the other for a longe tyme after that the Compl[ainan]t was cleared and freed att the Assizes after helde att Chellmeforde in Essex And further or more To this Interr[ogatorie] this deponent Cannott depose.

To the xvjth Interr[ogatorie] this depo[nen]t saiethe that she did heare Thomas Okeley one of the def[endan]ts affirme and say that he had £ xl to expende in the matter (the defend[an]t Walters woulde stande to those words in accusinge the Compl[ainan]t w[hi]ch allreadye he before had said And this depo[nen]t further saiethe that Henrye Bate Iohn Woodbridge, Anthonie Hake, Symon Ioyce, Edward Leake, Allan Baker, Iohn Raymond and divers others of the def[endan]ts were att the Assizes att Chellmeford and did accompanie and incourage the def[endan]t Walters to give evidence To the Greate Inqueste att the Barr before the open Co[u]rte vpon An Indictem[en]t by him then And there pr[e]ferred against the said Compl[ainan]t conc[er]ninge the said supposed Robberye, w[hi]ch Walters did then & there depose and said before the whole Co[u]rte And [f3 r.] greate Inquest that the Compl[ainan]t havinge a false bearde on his face was the man that robbed him att Vgly in Essex and did take from him the s[ai]d Walters xxxs in money, A hatt, and a Cloake of the goods and Chattels of him the said Raphe Walters and three yarde of Woollen Clothe of the goods and Chattells of one Peter Weekes gent[leman]: And this depo[nen]t further saiethe that she hath hearde ytt reported that Edward Hunter one of the def[endan]ts did deliver out speches in Mr Catesbies A Poulters shopp in Southwarke that for as much as the Compl[ainan]t had said that he Cared nott for the Poulters yett if they Coude fynde never so little a hole in the Compl[ainan]ts Coate the Poulters woulde hange him and then they shoulde see both mother and daugther goe howlinge vpp and dawne the streetes or words to such effecte And further to this Interr[ogatorie] she Cannott say.

To the xvijth Interr[ogatorie] this depo[nen]t saiethe that she did heare Nicholas Kefford a defend[an]t beinge accompanied w[i]th Henrye Staplefore, Will[ia]m Birte and others def[endan]ts reporte and say that they woulde make the Compl[ainan]t wearye of the streete where he dwellethe and enforce him to runne away and they woulde so pepper the Compl[ainan]t before they had done w[i]th him or words to such or like effecte as they woulde make him flye the streete and this depo[nen]t saiethe that the def[endan]t Okeley and his wieffe did give out words that the Compl[ainan]t then desired to have his knavery kn[o]wen w[i]ch all woulde then come out Butt whereas A pecke of wheate woulde have stopped her the saide Okeley's wifes mouthe then a whole bushell shoulde nott doe ytt or stopp it or words to that effecte. And further this depo[nen]t saiethe th[a]t after the said Compl[ainan]t was cleared and freed att the Assizes in Essex and this depo[nen]t gotten vpon horse backe this depo[nen]t was invited amongst others by one Marshall Baker a highe Constablee in Essex to ryde into the signe of the Cocke in Chalmefford where most p[ar]te of the defend[an]ts for the Assizes tyme did lye and Inne to drinke a quarte of winne (w[h]ich beinge called for) and as this depo[nen]t stayed [f3 v.] to drinke he the saide Walters and Edward Leake came by her and she in the greatnes of minde for the wrunge Walters had done To the Compl[ainan]t beinge ever an honest man and so ever reputed w[i]thout detecc[y]on of anie, called the said Walters false for sworne wretche who gave her never a worde againe, but the said Edward Leake made answer Besse Besse didest thou never sell an old Conny for a younge Rabbett and swore ytt was so or such likeworde the said Leake makinge noe difference (as shoulde seeme[de]) betweene the life of a man, and the sale of an old Rabbett for a younge Conny as seemed by his words then delivered And more to this Interr[ogatio]n this depo[nen]t Cannot depose.

To the xviiith Interr[ogatorie] this depo[nen]t saiethe that the wives of Iames Harlowe, Allen Baker and others of the defend[an]t s did reporte and say that the Compl[ainan]t vnder a Cullour to doe the kinges s[e]rvice did ride abroade and take purses and that the Compl[ainan]t was A Theife and A gentleman Theife and coulde nott therefore but mantayne his wife and Children Costlie bycause he used to take purses on the Highe Way or words to that effecte And more to this Interr[ogatorie] this deponent Cannot depose.

To the xxith Interr[ogatorie] she this depo[nen]t saiethe that she hath crediblie hearde that some of the def[endan]ts wives att the tyme when the Compl[ainan]t was gone To the tryal in Essex for the said supposed robberye they

did awatche The Compl[ainan]ts doore of p[u]rpose as yt seemed that none of the Compl[ainan]ts goods shoulde bee Carried out of his house but they woulde vewe them before (althoughe the Compl[ainan]ts plate and his wives bravery were gone before) sayinge assuredlie he woulde bee hanged And further this depo[nen]t saithe that She allso hearde it Crediblie reported from thes[e] defend[an]ts mouthes that the Compl[ainan]t had solde his place of s[e]rvice in C[ou]rte for £ Clx and given it A [f4 r.] Scott to begg his p[ar]don And more to this Interr[ogatorie] she cannot say.

To the xxiiijth Interr[ogatorie] this depo[nen]t saithe that Isabell the wiefe of Will[ia]m Birte one of the def[endan]ts did reporte to and say that if the Compl[ainan]t had bene hanged he might have thankene the proude Queane his wiffe for the Compl[ainan]t was an honest man and she did never heare or knowe the Contrarie biddinge the Compl[ainan]ts wyfe goe her wayes and dwell att the townes end for before the Poulters had done w[i]th her husbande they woulde make the Compl[ainan]ts wiefe goe and dwell there where the Compl[ainan]ts wife was borne. And more to this Interr[ogatorie] this deponent Cannot depose.

To the xxiiiijth Inter[rogatio]n this depo[nen]t saithe that she did heare the defend[an]t Thomas Okeley give out speches and said that vpon communicac[i]on had w[i]th The said Okeley in Gracious Streete and els[e]where by some of the Compl[ainan]ts frende that did tell Okeley that the matter was fowle against him and the res[t] of Poulters who made answere that he did nott care what the Compl[ainan]t woulde doe against them so longe as there were xxiiij^{er} purses To the Compl[ainan]ts one purse And that they woulde make him wearry before they had done And that he hoped for his p[ar]te that he shoulde fare noe worse then the rest of the defen[dan]ts did And moreover the said Tho[mas] Okeley on A tyme since the Compl[ainan]t was cleared att the Assizes as aforesaid did come To the Compl[ainan]ts stall and called and said To the Compl[ainan]ts wife theis words or like in effecte viz. Nose, Nose call me what thou wilt but call me nott theife And bycause they the defen[dan]ts and their wives will deryde and give flowtinge speches towarde the ho[nor]able Co[u]rte of Stare Chamber that the said Thomas Okeley and his wife in Iestinge manner beinge softlie stroken by the said Edwarde Hunter and his wiefe, they the said [f4 v.] Thomas Okeley and his wiefe did answeare and say vnto the said E[dwarde] Hunter and his wiefe well goe too If yow be so lustye I will have yow in the Star Chamber in scornfull and deridinge Manner and rather in regards of the Compl[ainan]ts suite there agaisnt them the

said Companie of Poulters And more to this Inter[rogatio]n this depo[nen]t cannott depose.

To the 34th Inter[rogatio]n this depo[nen]t saiethe that she hath hearde that Iohn Woodbridge one of the deff[endan]ts and some other of the deff[en]d[an]ts s[er]vants vpon or about the tyme and att or neare the place in the Inter[rogatio]n menc[i]oned did assa[u]lt beate and wounde Falke Bromeley then the Compl[ainan]ts s[er]vant and as the said Falke did tell and reporte vnto this depo[nen]t that Woodbridge did holde downe of perpose the said Falke to that and that the other deff[endan]ts s[er]vants might as they did beate him whose wounde were so grevous and Clothes all to torne w[hi]ch this depo[nen]t did see and beholde w[i]th manie others but what the names of the defend[an]ts s[er]vants were that so assaulted and wounded the said Falke the Compl[ainan]ts s[er]vant she this depo[nen]t knowthe nott, but referrethe their names To the said Falke himselfe And vpon the s[ai]d then woundinge and beatinge the said Falke made answeare to Woodbridge and the rest that the said Falke was nott the man t[ha]t Woobridge and the rest then looked for to be revenged vpon, se[e]inge they coulde nott have their purpose otherwise And this depo[nen]t is well assured t[ha]t he was so bitten, beaten [f5 r.] and wounded and clothes to his shirte so torne as was most grevous and pittifull to beholde And more she cannott depose.

To the 35th Inter[rogation] this depo[nen]t saiethe t[ha]t the very same son-day menc[i]oned in the Inter[rogatio]n beinge the 24th of Aprile the pl[ain]t[iff] was all that day in London both before devine [sic] s[e]rvice, att divine s[e]rvice, and dynded after divine Service att his owne howse in Gracious Streete. And after dyner he walked abroad into Moore Feilde and returned throughe Bisshopps gate home warde and vnder or neere Bisshopps gate one Richard Palfreman m[er]chant beinge in the pl[ain]t[iff]s Companie founde a knife in a sheath and gave it To the Compl[ainan]ts sonne keepinge the pl[ain]t[iffs] Companie vntil Supper and so the pl[ain]t[iff] returned to his howse and there supped And that the Compl[ainan]t was not booted nor on horsebacke all that day for his horse stode all that day and the day before att the signe of the Nagges heade in longe Southwarke att one R[o]b[er]ts Halls stable And this depo[nen]t further saiethe t[ha]t The Compl[ainan]t was att Charge and did pr[o]duce and bringe to Chalmeford to prove and witness his abode and beinge in London the said Sonday and for his good and honest Carriage and demeanor all his life tyme the number of 30^{by} p[er]sons and above most p[ar]te whereof were hearde speake but coulde nott be p[er]mitted to

sware in respecte their testimonies were thought nott to bee for his Ma[jes]tye And thereupon the Iury did goe together and cleared the pl[ain]t[iff] And so he upon payment of his Fees to Mr Sheriffe and Clarke of the Assizes and Cryer was discharged.

[f5 v.] To the 36th Inter[rogatio]n this depo[nen]t saiethe t[ha]t Mris Barakay in this Inter[rogatio]n named did oftentimes in A pittifull complyinge sorte and sometymes weepinge resorte vnto the Compl[ainan]ts howse and did aske for the Compl[ainan]t himselfe to have tolde him howe she was rated and reviled and threatened by the defend[an]ts Iames Harlowe and Thomas Okeley and their wives and divers others defend[an]ts since she vttered those Sclaunderous speeches w[i]ch were given out against the Compl[ainan]t conc[er]inge the said robbery And they did say that they woulde have her both whipped and punished whatsoev[er] ytt cost them, and that both they and div[er]s others of the def[endan]ts did so threaten to vex and trouble for t[ha]t she shoulde never be able to helpe herselfe againe or be suffered to come into the Streetes wherefore she was wearied of her life in regarde she was the cause that the matter came to light.

[signed with a mark]

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[f6 r.] [Depositiones] Capt[ae] die et A[nn]o pred[ictos]

Marye Smithe of the p[ar]lishe of S[ain]ct Peters Crownehill London Spinster aged xxvii yeares or thereabouts sworne and exa[m]ined deposethe and saithe

To the First Inter[rogatio]n this depon[en]t saithe she doth verie well knowe that the Compl[ainan]t after such tyme as he did marry w[i]th Alice Pigborne the widdowe of Iames Pigborne Poulter deceased in respecte both of soundrye debtes owinge To the said Iames in his liefte tyme and after his deathe To the said Alice widdowe and remayninge in some of the defend[an]ts hands for recoverye whereof the Compl[ainan]t was constrayned when w[i]th faire and quiett meanes he Could nott obtayne att their hands to arrest and followe suite vntill they were informed to Come and Compounde w[i]th the Compl[ainan]t for the same the names of w[hi]ch of the defend[an]ts that so stooode indebted and were sewed were Edward Leake J[on]hn Vowell, Allen Baker, Thomas Moyse, Richard Keyes and others def[endan]ts w[hi]ch sev[er]all suites were dependinge some fower, some, Fyve and some Sixe yeares nowe past or thereabouts sithence w[hi]ch tyme of the s[ai]d sev[e]

rall suites the said defend[an]ts and others defend[an]ts of their societie and trade have so much spited and maliced and borne such ill will To the Compl[ainan]t and to his wife as they have made all the meanes they can to detracte and hinder them both of Creditt and wares in the Poulters trade And moreover they the defend[an]ts have vowed and p[ro]tested [f6 v.] that they woulde enforce them the Compl[ainan]t and his wiefte to flee Gracious streete and manie more threatinge words to that or the like effecte and the Cause why she knwethe the same to be trewe is for that they have taken both the Compl[ainan]t wares from his wiefte wthout money or other satisfacc[i]on and in despitefullnes taken over the Compl[ainan]ts mother in lawes heade [grounds] of Rabbetts and Cunnies worthe £ L a yeare and more (all charges borne) from her, and doe what in them lyethe to debare her and them of anie benniffitt of that trade And more to this Inter[rogatio]n she cannott say.

To the 4th Inter[rogatio]n she this depo[nen]t saiethe t[ha]t shortly after the said Walters, Hakes and I[o]h[n]e in Newgate Market and others defend[ant]s dwellinge in Gratiuous streete and els[e] where in London, did give out speeches that Walters the defend[an]t had bene robbed, and that the Compl[ainan]t was the man t[ha]t robbed him, and gave out further speches that the Compl[ainan]t was a Theefe and a gentleman Theefe Or words to that or like affecte And more to this Inter[rogatio]n she Cannott depose.

To the 7th Inter[rogatio]n this depo[nen]t saiethe t[ha]t she doth well knowe that after the def[endan]t Walters was brought before the officers of his Ma[jes]ties Comptinge howse by the Compl[ainan]ts meanes for Sclaunderinge him as aforesaid and that the Compl[ainan]t had arrested some others of the defend[an]ts in London for their like Sclaunderous speeches vsed against the Compl[ainan]t t[ha]t is to say for calleinge the Compl[ainan]t t Theefe and gentleman Theefe and for sayinge that the [f7 r.] defend[an]t Walters had bene Robbed and that the Compl[ainan]t was the man that robbed him And moreover this depo[nen]t did heare Falke Bromeley say and affirme t[ha]t some of the defend[ant]s did resorte vnto Walters after the Compl[ainan]t had arrested them and p[er]swaded Walters to stande vnto his accusac[i]on of the Compl[ainan]t as before he had spoken conc[er]ninge the said supposed Robberye or els[e] yf Walters shoulde nott so doe such of the defen[dan]ts as were arrested att the Compl[ainan]ts suite for vsinge the said sclaunde[r]ous words woulde be vndone and smarte for vttering them words out of Walters mouthe the names of the defend[an]ts that so p[er]swaded Walters to slaunde vnto his words of accusinge the Compl[ainan]t as the said

Falke Bromeley tolde this depo[nen]t were Nicholas Kefferd and Will[ia]m Birte Butt whether the said Falke will affirme the same againe in respecte he is servant sithence vnto Kefford she this deponent cannot tell And further or more to this Inter[rogatio]n she this depo[nen]t cannott depose.

To the 8th Inter[rogatio]n this depo[nen]t saiethe that she doth knowe that manie of the defend[an]ts did take verie much dislike w[i]th the Compl[ainan]t for arrestinge some of the defend[an]ts for so suinge the said sclanderous speeches and words of the Compl[ainan]t and not acquaintinge them therew[i]th And further this depo[nen]t saiethe t[ha]t shortlie after the said arreste [was] made Henrye [f7 v.] Stapleford, Nicholas Kefford, Will[ia]m Brite defend[an]ts and div[er]s oth[er]s of the defend[an]ts To the number of Seven or Eight p[er]sons did assemble and meete together att Poulters Hall and did sende for Mrs Bromeley by the bedle of their Companie twice before she did goe, and att the seconde sendinge although she was somewhat vnwillinge in regarde of their harde vsage of the Compl[ainan]ts she did goe before them the w[hi]ch their so sendinge for Mrs Bromeley was on Monday after the said Walters was arrested vpon the Satterday before att the Compl[ainan]ts suite for the said sclaunderous words by him spoken, but what words the Poulters vsed to Mrs Bromeley att Poulters Hall she referreth that to herselfe And more to this Inter[rogatio]n she Cannott depose.

To the 9th Interr[ogatorie] this depo[nen]t saiethe t[ha]t after the said defend[an]ts assemblies att Poulters Hall even the very same day beinge Monday the said def[endan]ts and others defend[an]ts did procure a Warrant from A Iustice of peace in London for app[re]henc[i]on of the Compl[ainan]t for the said supposed robberye whereof the defend[an]t Walters before accused him And the nexte day after beinge Tewesday the def[endan]ts Walters and one Conger then a Constable w[i]th others of the defend[an]ts came To the Compl[ainan]ts howse verie earlie in the morninge and app[re]hended the Compl[ainan]t by vertue thereof and convayed him before S[i]r Stephen Soame A Iustice [f8 r.] of peace for the said Cittye of London the saide Walters and Conger the Constable beinge then accompanied w[i]th div[e]rs of the defend[an]ts And more to this Inter[rogatio]n she this deponent Cannot depose.

To the xiiijth Inter[rogatio]n this depo[nen]t saiethe that she doth knowe and well reme[m]ber vpon the s[ai]d Tewesday and w[i]thin one quarter of an hower after that the Compl[ainan]t was so carried before S[i]r Stephen So-

ame k[nigh]t by Cullour of the said warrant Will[ia]m Birte defend[an]t and Mr Warden of the said Companie of Poulters did come into the Compl[ainan]ts Shopp and after into his hall and demanded first of the Compl[ainan]ts S[er]vantes (this depo[nen]t beinge one) what goods the Compl[ainan]t had, And afterwarde the said Birte came To the Compl[ainan]ts wiffe and To the said Mrs Bromeley and made the like inquirie And the said Birte did say that he was assured That the same howse was the said Mrs Bromeleys but the goods were the Compl[ainan]ts and willed the Compl[ainan]ts wiffe and S[er]vants to looke to ytt for the matter was fowle enoughe of words to that effecte And futher the said Birte then further said and [e]xp[ec]ted t[ha]t if the Compl[ainan]t had come vnto them (meaninge the Companie of Poulters) and desired them to have taken vpp the matter they woulde have ended the Cause And more to this Inter[rogatio]n this depo[nen]t cannot depose.

[f8 v.] To the xiiijth Inter[rogatio]n this depo[nen]t saiethe that the said defend[an]t Birte did will the said Margery Bromeley th[a]t if she had anie goods in the Compl[ainan]ts howse so looke vnto ytt bycause the howse was hers but the goods were the Compl[ainan]ts or To the like effecte, for the cause was so fowle and badd on the Compl[ainan]ts p[ar]te as that he woulde nott for £ C and £ C have the like matter against him as was against the Compl[ainan]ts for the said Cause t[ha]t the Compl[ainan]t was so appr[e]hended All w[hi]ch speches and words of the said Birte the Compl[ainan]ts wiffe (beinge then greate w[ith] child) and the said Mrs Bromeley her mother so farr distemp[er]ed and affrighted th[a]t wee expected an vntimielie deliv[er]ye of the one and did indeed much amaze and distracte the other for a longe tyme adter vntill the Compl[ainan]t was cleared and freed att the Assizes after att Chellmeford in Essex And further or more to this Inter[rogatio]n this depo[nen]t cannot depose.

To the xvjth Inter[rogatio]n this depo[nen]t saiethe t[ha]t she did heare Thomas T[a]keley and of the defend[an]ts affirme and say that he had £ xl to expende in the matter if the defend[an]t Walters woulde stande to those words in accusinge the Compl[ainan]t w[hi]ch allready he before had said And this depo[nen]t further saiethe that Henrye Bate Iohn Woodbridge Anthonie Hake, Symon Lyee, Edward Leake, Allen Baker, Iohn Raymond and div[er]s others [f9 r.] of the defend[an]ts were att the Assizes att Chellmefford and did accompanie and incurrage the def[en]d[an]t Walters to give evidence To the greate Inquest att the Barr before the open Courte vpon an Indictm[en]t by him then and there p[re]ferred against the s[aid] Compl[ainan]t

Conc[er]ninge the s[ai]d supposed robberie w[hi]ch Walters did then and there depose and said before the Whole Co[u]rte and greate Inquest that the Compl[ainan]t havinge a false bearde on his face was the morn[inge] that robbed him att Vgley in Essex and did take from him the said Walters xxxs in money A hatt and a Cloake of the goods and Chattells of him the said Raphe Walters and three yarde of woollen Clothe of the goods and chattells of one PeterWeekes gent[leman] And this depo[nen]t further saiethe t[ha]t she hath hearde that Edwarde Hunter one of the defend[an]ts did deliver out speches in Mris Catesbies A poulters shopp in Southwarke t[ha]t for as much as the Compl[ainan]t had said t[ha]t he cared nott for the Poulters, yett if they coulede finde never so little a hole in the Compl[ainan]ts Coate the Poulters woulde hange him and then they shoulde see both mother and daughter goe howlinge vpp and downe the streetes or words to such effecte And further to this Inter[rogatio]n she Cannott say.

To the xvith Inter[rogatio]n this depo[nen]t saiethe th[a]t she did heare Nicholas Kefford a defend[an]t beinge accompanied w[i]th Henrie Stapleford, Will[ia]m Birt and others defen[dan]ts reporte and say they would [f9 v.] make the Compl[ainan]t wearye of the streete where he dwellethe and enforce him to runne away and Woulde pepper the Compl[ainan]t before they had done w[i]th him or words to such or like effecte And this depo[nen]t saiethe that the defend[an]t Okeley and his wiefe defend[an]ts did give out words that the Compl[ainan]t then desired to have his knaverye kn[o]wen w[hi]ch all woulde then come out Butt whereas a pecke of wheate woulde have stopped her the said Okeleys wiefes mouthe then a whole bushell shoulde nott doe it nor stopp ytt or words to that effecte. And further this depo[nen]t saiethe that after the said Compl[ainan]t was Cleared and freed att the Assizes in Essex and this depo[nen]t gotten vpon horsebacke this depo[nen]t was invited amongst others by one Michaelle Baker A highe Constable in Essex to ride into the signe of the Cocke in Chalmeford where most p[ar]te of the defend[an]ts for the Assize tyme did lye and Inn to drincke a quarter of wine w[hi]ch beinge called for as this depo[nen]t stayed to drincke he the said Walters and Edward Leake came by her and Elizabethe Bromeley in the greatnes of the wronge Walters had done To the Compl[ainan]t beinge ever an honest man and so ever reputed w[i]thout detecc[i]on of anie called the said Walters false for sworne wretche who gave her never a words againe, but the said Edward Leake made answare Besse Besse did[e]st [f10 r.] then nev[e]r sell an old Conny for a younge Rabett and sweare it was so or such like words

the said Leake makinge noe difference betwixte the life of A man and the sale of and old Conny for a younge Rabett as seemed by his words then deliv[e]red And more to this Inter[rogatio]n this depo[nen]t cannott depose.

To the xviiijth Inter[rogatio]n this depo[nen]t saiethe t[ha]t the wives of Iames Harlowe, Allen Baker and others of the defend[an]ts did reporte and say that the Compl[ainan]t vnder A Cullour to doe the kinges s[e]rvice did ride abroad and take purses and that the Compl[ainan]t was a Theefe and A gentleman Theefe and coulde nott but therefore mantayne his wiefe and Children Costlie bycause he vsed to take purses on the highe wayes or words to that effecte And more to this Inter[rogatio]n she saiethe she cannott depose.

To the xxiijth Inter[rogatio]n this depo[nen]t saiethe t[ha]t she hath crediblie hearde th[a]t some of the defend[an]ts wives att the tyme when the Compl[ainan]t was gone to bee tried in Essex for the supposed Robbery they did wathe the Compl[ainan]t doore of p[ur]pose that none of the Compl[ainan]t goods shoulde bee Carried out of his howse but they woulde vewe them before althoughe the Compl[ainan]ts plate and his wives bravery were gone before and assuredly he woulde be hanged And further this depo[nen]t saiethe t[ha]t all so hearde it crediblie reported from the defend[an]ts mouthes [f10 v.] t[ha]t the Compl[ainan]t had solde his place of s[e]rvice in Co[u]rte for £ Clx and given it to A Scott to begge his p[ar]don And more to this Inter[rogatio]n she Cannott say.

To the xxiiijth Inter[rogatio]n this depo[nen]t saiethe that Isabell the wiefe of Will[ia]m Birte one of the defend[an]ts did reporte and say t[ha]t if the Compl[ainan]t had bene hanged he might have thancked the proude Queene his wiffe for the Compl[ainan]t was an honest man and she did never heare or knowe the Contrarie biddinge the Compl[ainan]ts wi[ef]fe goe her wayes and dwell att the Townes end for before the Poulters had done w[i]th her husbände they woulde make the Compl[ainan]ts wiffe goe and dwell there where the Compl[ainan]ts wyffe was borne And more to this Inter[rogatio]n she Cannott depose.

To the xxiiijth Inter[rogatio]n this depo[nen]t saiethe t[ha]t she did heare the defend[an]t Thomas Okeley give out speches and said t[ha]t vpon Communicac[i]on had w[i]th the said Okeley in Gracious streete and els[e] where by some of the Compl[ainan]ts frende they did tell Okeley that the matter was fowle against him and rest of the Poulte[re]rs who made answeare that he did not care what the Compl[ainan]t coulde doe against them so longe as there

were Fower and twentie purses To the Compl[ainan]ts one purse and th[a]t woulde make him wearie before they had done and that he hoped for his p[ar]te th[a]t he coule faire noe worse [f11 r.] then the rest of the defend[an]ts did And moreover the said Thomas Okeley on a tyme since the Compl[ainan]t was cleared att the Assizes as afores[ai]d did come To the Compl[ainan]ts stall and called and said To the Compl[ainan]ts wiefe theis words or like in affecte viz Nose Nose call me what thou wilt but call me nott Theefe And bycause they the said defend[an]ts and their wives will deride and give Flowtinge speeches towarde the ho[nora]ble Corte of Starre Chamber they the said Tho[mas] Okeley and his wiefte in Iestinge manner beinge softlie stroken by the said Edwarde Hunter and his wiefte They the said Thomas Okeley and his wiefe did answeare and say vnto the said Hunter and his wiefe (well goe to) If yow bee too lustye I will have yow in the Starre Chamber in scornfull and deridinge manner and rather in regarde of the Compl[ainan]ts Suite there against them the said Compannie of Poulte[re]rs And more to this Inter[rogatio]n this depo[nen]t cannott depose.

To the xxxiiijth Inter[rogatio]n this depo[nen]t saiethe t[ha]t she hath hearde t[ha]t Iohn Woodbridge one of the defend[an]ts And some others of the defend[an]ts s[e]rvants vpon or about the tyme and att or neere the place in the Inter[rogatio]n menc[i]oned did assault, beate and wounde Falke Bremeley the then Compl[ainan]ts s[e]rvante And as the said Falke did tell and reporte vnto this depo[nen]t t[ha]t Woodbridge did holde him downe of purpose th[a]t t the other def[endan]ts [f11 v.] s[e]rvants might as they did beate him whose wounde were so grevous and Clothes all to torne w[hi]ch this depo[nen]t did see and beholde w[i]th manie others but what the names of the defend[an]ts s[e]rvants were th[a]t so assaulted and wounded the said Falke the Compl[ainan]ts S[e]rvant she this depo[nen]t knwethe not but referrethe their names To the said Falke himselfe. And vpon the said then woundinge and beatinge the said Falke made answeare to Woodbridge and the rest that he the saide Falke was nott the man that Woodbridge and the rest then looked for to bee revenged vpon seeinge they could not have their p[ur]pose otherwise And this depo[nen]t is well assured that he the said Falke was so bitten, beaten and wounded and clothes to his shirte so torne as was most grevous and pittifull to beholde and more she Cannott depose.

To the xxxvth Inter[rogatio]n this depo[nen]t saiethe th[a]t on Sonday beinge the xxiiijth of Aprill the pl[ain]t[iff] was all that day in London both before divine s[e]rvice, att divine we[r]vice, and dyned after divine Se[r]vice at

his owne howse in Gracious streete And after dinner he walked abrode into Moore fields and returned thorough Bishoppes gate Homewarde and vnder or neere Bisshopps gate one Richard Pallfreyman Marchante beinge in his Companie founde A knife in A sheathe and gave it To the Compl[ainan]ts [f12 r.] sonne keepinge the pl[ain]t[iffs] Companie vntill supper and so the pl[ain]t[iff] retorned to his howse and there supped And that the Compl[ainan]t was nott booted nor on horsebacke all that day for his horse stode all that day and the day before att the signe of the Nagges heade in longe Southwarke att one R[o]b[er]ts Halls Stable And this depo[nen]t further saiethe that the Compl[ainan]t was att charge and did p[ro]duce and bringe to Chellmeford to prove and wittnes his abode and beinge in London the said Sunday and for his honest Carriage and demeanors all his liefie tyme the number of Thirtie p[er]sons and above most p[ar]te whereof were hearde speake but couldnott be p[er]mitted to sweare in respecte their testimonies was thought not to be for his maj[es]tie And therevpon the Iury did goe together and cleered the pl[ain]t[iff] who vpon paym[en]t of his fees to Mr Sheriffe and others was discharged.

To the xxxvjth Inter[rogatio]n this depo[nen]t saiethe that manie tymes since the begininge of this suite Avis Barakey a Chairewoman hath often come To the Compl[ainan]ts howse askinge still for him as yt were to Complaine vnto him howe hardlie and vnkindlie she was threatened and vsed for his sake and for her vttering of A truthe for him And w[i]th teares lett fall that she was threat[e]ned by Iames Harlowe and Thomas Okeley and their wives and others Poulters defen[dan]ts and their wives and by them vowed and sworne [f12 v.] that they woulde have her the said Avis both whipped and punished whatever yt Cost them and vowed to banishe her of the streetes and woulde so vex and trouble her as she shoulde never bee able to helpe herselfe againe sayinge further they woulde make her wearye of her liefie bycause they did say all their trouble of suite was by her meanes or els[e] the matter coulde nott have come out, w[hi]ch words of threates and raylinge manner both she this depo[nen]t hath hearde the said defend[an]ts and others vse To the saide Avis, and besides all so the said Avis hath vttered as much manie tymes to this depo[nen]t and others and said they woulde vtterlie vndoe her And more to this Inter[rogatio]n this deponent cannot depose.

[signed with an A]

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[f13 r.] [Depositiones] Capt[ae] 3^o die Julij 1609 [Anno Regni] 7^o Ja[cobi] R[egi]s

Margerye Bromeley of S[ain]ct Peters C[r]ownehill London widdowe late wife of Will[ia]m Bromeley late of the same Poulter deceased aged Lxiiij yeares or thereabouts sworne and examined depossethe and saiethe

To the First Inter[rogatio]n this depo[nen]t saiethe th[a]t she doth knowe that the Compl[ainan]t after he married w[i]th Alice the widdowe of Iames Pigborne poulter deceased was inforced for Plan[t]ie debtes due both to him in his life tyme and since To the Compl[ainan]t and remayninge in some of the def[endan]ts hande to attempte suite for the recov[e]rye thereof w[hi]ch by noe faire meanes or otherwise he coulde nott gett or recover out of their hands the names of w[hi]ch def[endan]ts as she reme[m]brethe were Edward Leake, Iohn Vowell and his wiefe, Thomas Okeley and his wiefe, Edward Hunter Allen Baker, Thomas Moyse, R[i]ch[ard] Ke[y]es and others w[hi]ch suite was w[i]thin theis Fower, Fyve and Sixe yeares nowe past, sithence w[hi]ch tyme the said def[endan]ts and others the def[endan]ts have much malliced, threatened and borne evill will vnto the Compl[ainan]t and his wiefe and debarred and hindred them of manie benniffitts of the Compl[ainan]ts wives tradinge in Poultry ware besides havinge given forthe speches t[h]a[t] they wulde inforce the said Compl[ainan]t to dep[ar]te from his dwellinge in Gracious Streete and manie more threateninge speches tendinge to th[a]t of the like effecte And more to this Inter[rogatio]n she Cannott depose but that they have debarred her this depo[nen]t from grounds of Rabbetts worthe A hundred pounds a yeare And knowethe noe other cause but their mallice & hatred borne vnto her for the Compl[ainan]t and his wives sacke And more to this Inter[rogatio]n she this depo[nen]t cannot depose.

[f13 r.] To the 4th Inter[rogatio]n this depo[nen]t saiethe th[a]t ymediately after the said Walters, Hake and Ioyce did so assault the Compl[ainan]t on the kinges highes way others of the def[endan]ts dwellinge in Gracious Streete did publishe and reporte th[a]t the Compl[ainan]t Walters had bene robbed and that the Compl[ainan]t was the man that robbed him, and that the Compl[ainan]t was a Theefe, and a gentleman theefe or such like words And more to this Inter[rogatio]n she Cannott depose.

To the 7th Inter[rogatio]n this depo[nen]t saiethe th[a]t she doth knowe an that after the said def[endan]ts Walters had bene called in question before the officers of his Ma[jes]ties Comptinge Howse by the Compl[ainan]t meanes

for so sclaunderinge him as aforesaid and that the Compl[ainan]t had all so arrested some others of the def[endan]ts in London for their like speches in sclaunderous manner against the Compl[ainan]t That is to say for their callinge the Compl[ainan]t Theefe and gentleman Theefe and for sayinge th[a]t the def[endan]ts Walters had bene robbed and th[a]t the Compl[ainan]t was the man th[a]t robbed him And th[a]t further this depo[nen]t did heare Falke Bromeley say and affirme th[a]t some of the defen[dan]ts did goe vnto Walters after such their arrestes by the Compl[ainan]t and p[er]swaded Walters to slande vnto such words of accusac[i]on of the Compl[ainan]t as he had spoken against him conc[er]ninge the s[ai]d supposed robbery or els[e] if he the said Walters shoulde nott so doe th[a]t such of the def[endan]ts as were arrested for vsinge the said sclanderous words woulde be vndone and smarte for their vtteringe the same out of his mouthe the names of w[hi]ch def[endan]ts th[a]t did p[er]swade the said Walters to slande vnto the accusinge of the Compl[ainan]t were Nicholas Kefford and Will[ia]m Birt And further to this Inter[rogatio]n she cannott depose.

[f14 r.] To the 8th Interr[ogatorie] this depo[nen]t saiethe th[a]t she doth knowe th[a]t manie of the def[endan]ts did take very much dislike w[i]th the Compl[ainan]t for arrestinge some of the def[endan]ts for vsinge the same sclaunderous speches of the Compl[ainan]t and not acquaintinge them therew[i]th And further this depo[nen]t saiethe th[a]t shortlie after the same arrestes made Henrye Stapleford, Nicholas Kefford, Will[ia]m Birt, def[endan]ts and divers others defend[an]ts To the number of Seaven or Eight p[er] sons defen[dan]ts did assemble and meete together att Poulters Hall and did sende for this depo[nen]t by the Bedle of their Companie twice before she did goe and att their seconde sendinge (althoughe she was somewhat vn-willinge in regarde of their harder vsage of her and the Compl[ainan]t) she came before then and Stapleford, Kefford, and Brit and others def[endan]ts then there, did demaunde of this depo[nen]t of the Compl[ainan]ts estate and wealthe and where it was, sayinge they were assured the Compl[ainan]ts wiefe was wealthye otherwise the Compl[ainan]t woulde never have married her, and allso they were assured th[a]t the Compl[ainan]t had good store of money or like words And this depo[nen]t answered th[a]t the Compl[ainan]t althoughe he had noe greate store of money w[i]th her yett he had an honest woman, And then they asked what was become of Pickbornes [sic] twoe children and of their porc[i]ons, wherevnto this depo[nen]t said th[a]t the Compl[ainan]t had bettered their porc[i]ons and not ynnpared them all w[hi]ch

was done on Monday after Walters and the others were arrested for slaughtering the Compl[ainan]t And more to this Inter[rogatio]n this depo[nen]t cannott depose.

To the 9th Inter[rogatio]n this depo[nen]t saiethe th[a]t after the defend[an]ts assembles att Poulters Hall even the very same day beinge Monday the said def[endan]ts and others def[endan]ts did p[ro]cure A warrant from A Iustice of peace in London for apprehenc[i]on of the Compl[ainan]t for the said supposed robberye whereof the def[endan]ts Walters before accused him And [t]he next day after beinge Tewsdays the defen[dan]t Walters And one Conger then A Constable w[i]th other of the def[endan]ts came To the Compl[ainan]ts howse very earlie in the morninge and apprehended the Compl[ainan]t by vertue thereof and Conveyed him before S[i]r Stephen Soame A Iustice of peace for the s[ai]d Cittye of London the said Walters and Conger the Constable beinge then accompanied w[i]th divers of the defen[dan]ts And more to this Inter[rogatio]n she this depo[nen]t cannott depose.

To the xiiijth Inter[rogatio]n this depo[nen]t saiethe th[a]t she doth knowe And well reme[m]ber vpon the said Tewsdays and w[i]thin [f14 v.] one quarter of an hower after th[a]t the Compl[ainan]t was so carryed before S[i]r Stephen Sarme knight by Culloure of the s[ai]d warrant Will[iam] Birt def[endan]te and M[aiste]r Warden of the s[ai]d Companie of Poulters did come into the Compl[ainan]ts shopp and after into his hall and demanded first of the Compl[ainan]ts S[er]vants and of this depo[nen]t what goods the Compl[ainan]t had and afterwarde the said Birt did say that he was assured that the howse was Mrs Bromeleys this depo[nen]ts, but the goods were the Compl[ainan]ts and willed the Compl[ainan]ts wief and S[er]vants to looke vnto ytt for the matter was fowle enoughe or words to that effecte And further the said Birt then allso said and p[ro]tested th[a]t if the Compl[ainan]t had come vnto them (meaninge the Companie of Poulters) and desired them to have taken upp the matter they would have ended the Cause And more to this Inter[rogatio]n this depo[nen]t cannott depose.

To the xiiijth Inter[rogatio]n this depo[nen]t saiethe th[a]t the saide def[endan]t Birt did will this depo[nen]t Margerye Bromeley th[a]t if she had anie goods in the Compl[ainan]ts howse to looke vnto ytt bycause the howse was hers but the goods were the Compl[ainan]ts or to that or the like effecte for the Cause was so fowle and badd on the Compl[ainan]ts p[ar]te as he would nott for £ 10 and an hundred pounde have the like matter against him as was

against the Compl[ainan]t for the s[ai]d Cause th[a]t the Compl[ainan]t was so apprehended for Att w[hi]ch speches and words of the said Birt the Compl[ainan]ts wieffe (beinge greate w[i]th Childe) and this deponent her mother so farr distempered and frighted vs both th[a]t wee expected an vntimelie deliv[e]ry of the one and did in deede much amaze and distracte the other for a longe tyme after vntill ytt pleased god th[a]t the Compl[ainan]t was Cleared and freed att the Assizes after held att Challmefford in Essex And further or more to this Inter[rogatio]n this depo[nen]t cannott depose.

[f15 r.] To the xvjth Inter[rogatio]n this depo[nen]t saiethe th[a]t she did heare Thomas Okeley one of the defed[an]ts affirme and say th[a]t had For-tye pounde to expende in the matter (yf the def[endan]t Walters would stande to those words) in accusinge the Compl[ainan]t w[hi]ch already he before had said And this depo[nen]t further saiethe th[a]t Henrye Bate, Iohn Woodbridge, Anthonie Hake, Symon Ioye , Edward Leake, Allen Baker, Iohn Raymond and div[e]rs others of the def[endan]ts were att the Assizes helde att Challmefford and did accompanie and incurrage the defend[an]t Walters to give evidence To the greate Inquest att the barr before the open Co[u]rte vpon an Indictm[en]t by him then and there preferred against the said Compl[ainan]t conc[er]ninge the saide supposed Robbery w[hi]ch Walters did then and there depose and said before the whole Co[u]rte and greate Inquest th[a]t the Compl[ainan]t havinge A false bearde on his face was the man th[a]t robbed him att Vgly in Essex and did take from him the said Walters Thirtie Shillinges in money, A hatt and a Cloake of the goods and Chattels of him the said Raphe Walters and three yarde of woollen clothe of the goods and Chattels of one Peter Weekes gent[leman] And this depo[nen]t further saiethe th[a]t she hath hearde that Edward Hunter one of the def[endan]ts did deliver out speches in Mris Catesbies A Poulters shopp in Southwarke th[a]t for as much as the Compl[ainan]t had said th[a]t he Cared nott for the Poulters yett if they coulde finde never so little a hole in the Compl[ainan]ts Coate the Poulters woulde hange him and then they shoulde see both mother and daughter goe [f15 v.] howlinge upp and downe the streetes or words to such effecte And futher to this Inter[rogatio]n she cannott say.

To the xvijth Inter[rogatio]n this depo[nen]t saiethe that she did heare Nicholas Kefford a def[endan]t beinge accompanied w[i]th Henrye Stapleford, Will[ia]m Birt and others defend[an]t s reportre and say th[a]t they woulde make the Compl[ainan]t weary of the streete where he dwelled and inforce him to runne away and pepper the Compl[ainan]t before they had done w[i]

th him or words to such or like effecte. And this depo[nen]t saiethe th[a]t the defend[ant]t Okeley and his wiefe defend[an]ts did give out words that the Compl[ainan]t then defered to have his knavery knowen w[hi]ch all woulde then come out, but whereas a pecke of wheate woulde have stopped her the said Okeleyes wives mouthe then A whole bushell shoulde nott doe or stoppe itt or words to that effecte And further this depo[nen]t saiethe th[a]t after the saide Compl[ainan]t was Cleared and freed at the Assizes in Essex and this depo[nen]t gotten vpon horsebacke Elizabethe Bromeley was invited amon- gest others by one Michael Baker A Constable in Essex to ride vnto the signe of the Cocke in Challmeford where most p[ar]te of the defend[an]ts for the Assize tyme did lye and Inne to drinke a quarter of wyne w[hi]ch beinge called for and as this depo[nen]t stayed to drinke he the said Walters and Edward Leake came by them and she the said Elizabethe in the greatnes of the wronge Walters had done To the Compl[ainan]t beinge ever an honest man and so ever reputed called the said [f16 r.] Walters falce for sworne wretche or knave who gave her nev[e]r a words againe Butt the said Edward Leake made ans- weare Besse Besse didst thou never sell an olde Conny for a younge Rabbett and sweare it was so or such like words, the said Leake makinge noe differ- ence betwene the life of a man and the sale of an old Rabbet for a younge Conny as seemed to this depo[nen]t by his words then deliver[e]d And more to this Inter[rogatio]n this depo[nen]t Cannott depose.

To the xvijth Inter[rogatio]n this depo[nen]t saiethe th[a]t the wyves of Iames Harlowe, Allen Baker and other of the def[endan]ts did reporte and say th[a]t the Compl[ainan]t vnder Culloure to doe the kinges s[e]rvice did ride abroad and take purses and that the Compl[ainan]t was a Theefe and A gentleman Theefe and coulde nott but therefore but mantayne his wiefe and Children costlie bycause he vsed to take purses on the highe way or words to that ef- fecte And more to this Inter[rogatio]n this depo[nen]t Cannott depose.

To the xxijth Inter[rogatio]n she this depo[nen]t saiethe th[a]t she hath credi- blie hearde th[a]t some of the defen[dan]ts wives att the tyme when the Com- pl[ainan]t was gone to be tried in Essex for the said supposed robberye they did watche the Compl[ainan]ts doore of p[u]rpose th[a]t none of the Com- pl[ainan]ts goods shoulde be Carried out of his howse but they woulde vewe them before althoughe the Compl[ainan]ts plate and his wifes bravery were gone before and assuredly he woulde bee hanged And further this depo[nen]t saiethe th[a]t she all so hearde it Credible reported from de def[endan]ts mouthes that the Compl[ainan]t had solde his place of service in Co[u]rte for

one hundred and Threscore pounde and giben ytt A Scott to begge his p[ar]don And more to this Inter[rogatio]n she Cannott depose.

[f16 v.] To the xxiiijth Inter[rogatio]n this depo[nen]t saiethe th[a]t Isabell the wiede of Will[ia]m Birte one of the defend[an]ts did reporte and say that if the Compl[ainan]t had bene hanged he might have thancked the prowde queane his wiede for the Compl[ainan]t was an honest man and she did nev[e]r heare or knowe the contrarye biddinge the Compl[ainan]ts wiede goe her wayes and dwell att the townes end, for before the Poulters had done w[i]th her husband they woulde make the Compl[ainan]t goe or dwell there where the Compl[ainan]ts wiede was borne And more to this Inter[rogatio]n this depo[nen]t cannott depose.

To the xxiiiijth Inter[rogatio]n this depo[nen]t saiethe th[a]t she did heare the def[endan]t Thomas Ockley give out speches and saide that vpon Communicac[i]on had w[i]th the said Okeley [sic] in Gracious streete and els[e] where by some of the Compl[ainan]ts frende th[a]t did tell Okeley that the matter was fowle against him and the rest of Poulters who made answeare th[a]t he did nott care what the Compl[ainan]t coulde doe against them so longe as there were xxiiiij^{ty} purses to his one purse and that they woulde make him wearye before they had done and that he hoped for his p[ar]te th[a]t he shoulde fare noe worse then the rest of the defen[dan]ts did And moreover the said Thomas Okeley on a tyme since the Compl[ainan]t was Cleared att the Assizes as aforesaid did come To the Compl[ainan]ts stall and called and said To the Compl[ainan]ts wiede theis words or the like in effecte viz Nose Nose Call me what thou wilt but call me nott theefe and bycause they the defend[an]ts and their wives will deride and give flowtinge speches towarde the ho[nora]ble Co[u]rte of Starre Chamber they the said Thomas Okeley and his wiede in gestinge mann[e]r beinge softlye [f 17 r.] stroken by the said Edward Hunter and his wiede did answeare and say vnto the said Hunter and his wiede well goe to yf yow be to[o] lustye I will have yow in the Starre Chamber in scornefull and deridinge manner And rather in regarde of the Compl[ainan]ts suite there against them the said Companie of Poulters And more to this Inter[rogatio]n this depo[nen]t Cannott depose.

To the xxxiiijth Inter[rogatio]n this depo[nen]t saiethe th[a]t she hath hearde Iohn Woodbridge one of the defend[an]ts and some other of the defend[an]ts s[e]rvants vppon or about the tyme and att or neere the place in the Inter[rogatio]n menc[i]oned did assault, beate, and wounde Falke Bromeley then the

Compl[ainan]ts s[e]rvante and as the said Falke did tell and reporte vnto this depo[nen]t that Woodbridge did holde the said Falke downe of p[ur]pose that the other defendants s[e]rvaunts might (as they did) beate him whose wounde were so grevous and Clothes all too torne w[hi]ch this depo[nen]t did see and beholde w[i]th manie others but what the names of the defend[an]ts s[e]rvauntes were that so assaulted and wounded the saide Falke the Compl[ainan]ts s[e]rvaunte she this depo[nen]t knowethe nott but referrethe their names To the said Falke himselfe And vpon the said then woundinge and beatinge the said Falke make answeare to Woodbridge and the rest th[at] he [f17 v.] the said Falke was not the man that Woodbridge and the rest then looked for to bee revenged vpon seeinge they coulede nott have their p[ur]pose otherwise And this depo[nen]t is well assured th[at] he the said Falke was so bytten beaten and wounded and Clothes to his shirte so torne as was most grevous and pittifull to beholde And more she Cannott depose.

To the xxxvth Inter[rogatio]n this depo[nen]t saiethe th[at] the very Sunday menc[i]oned in the Inter[rogatio]n beinge the xxiiith of April the pl[ain]t[iff] was all that day in London both before divine S[e]rvice, att divine S[e]rvice and dyned after divine s[e]rvice [sic] att his onwe howse in Gracious streete and after dinn[e]r he walked abroade into Moorefilde and retorned throughe Bisshoppsgate homewarde and vnder or neare Bisshoppsgate one Richard Pallfreyman marchante beinge in the pl[ain]t[iff]s Companie founde a knife in a sheathe and gave ytt To the Compl[ainan]ts sonne keepinge the Compl[ainan]t Companie vntill Supper And so the pl[ain]t[iff] retorned to his howse and there supped And that the Compl[ainan]t was not booted nor on horsebacke all that day for his horse stode all that day and the day before att the signe of the Nagges heade in longe Southwarke att one R[o]b[er]ts Halls stable And this depo[nen]t further saiethe th[at] the Compl[ainan]t was att Charge and did [f18 r.] p[ro]duce and bringe to Chellmefford to prove and Wittnes his aboade and beinge in London the said Sunday and for his good and honest carriage and demeanor all his liefie tyme the number of xxx^{ty} p[er]sons and above most p[ar]te whereof were hearde speake but coulede nott be p[er]mitted to sweare in respecte their testimoines was thought nott to bee for his Ma[jes]tie And there vpon the Iury did goe together and Cleared the pl[ain]t[iff] who vpon paym[en]t of his fees to Mr Sheriffe and others was discharged.

To the xxxvjth Inter[rogatio]n this depo[nen]t saiethe th[at] Avis Bromeley in this Inter[rogatio]n menc[i]oned did manie tymes w[i]thin this yeare past

and since this suite begone come To the Compl[ainan]ts howse and asked for him and complained w[i]th teares shedd that Iames Harlowe and Thomas Okeley and their wives and others Poulterers did threaten and much reprove her and did vowe and sweare that they woulde have her whipte and punisht [sic] what ever it cost them, And they and others had vowed to banishe her the streete they woulde so vex and trouble her th[a]t she shoulde nev[e]r helpe herselfe and wearye her of her liefte for all their trouble came by her vtteringe to light and by her meanes and otherwise coulde nott, And this depo[nen]t hath heard the said def[endan]ts speake raylinglie and threaten the said Avis To the effecte afores[ai]d or in more bitter manner so that the said Avis hath weeped and said she lost their Custome for washinge, for utteringe a truthe and was besides so hardlie vsed And more to this Inter[rogatio]n she Cannot depose.

[signed with a mark]

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* * *

[f37 r.] 6[^o] Die an[n]o [Regni] 7[^o] Jac[obi] reg[is] Inter[rogatoria] ex Thom[e] Stone Quer[entis] mini[s]tr[ata]

Will[ia]m Gerrard of the parishe of S[ain]t Iames Clerkenwell in the countie of mid[d]l[esex] gent[leman] aged fyftie yeares & vpwards or thereabout sworne & examyned depose & saieth

To the first interrogatorie, he saieth, that he hath crediblie heare, that after the Compl[ainan]t was married, to his new wyfe, the Compl[ainan]t was constrained, for getting and recovering in of certen money dewe & owing vnto his p[re]dicessor Iames Pickborne at the tyme of his death, and by Pickborne left in some of the def[endan]ts handes, and lefte also by him, as porc[i]ons & m[a]inten[ance] for his then wydow & now the Compl[ainan]ts wife & his children, to attempt sute in lawe for the same, against Edward Leake Edward Hunter, Allan Baker, Iohn Vowel Elizabeth then widow now wife to Thomas Okeley Richard Keis Tho[mas] Moyse & dyvers others And more over he knoweth that there was sute between Iohn Vowell & Effyn his wiefe & the Compl[ainan]t & his wife in the spirituall courte that depended there 2 yeares & more before the def[endan]t Walters accused the Compl[ainan]t for a supposed robbery & more to this interr[ogatorie] he cannot saye.

To the second interr[ogatorie] this depon[en]t saieth at that he this depon[en]t comyng in company of the Compl[ainan]t & Hakes & Ioye & others def[endan]

ts from the last assizes held at Chemefford for Essex ryding together on this side Burntwoode dyd demande of the sayd Hake & Ioye to be resolved in one poynte w[hi]ch was whether the Compl[ainan]t when they intended to assault & app[re]hend him nere Enfield whether he dyd then ryde out of the ordynarie roode waye, & as yt were to flee escaepe and shvnne them & thervpon Hake turned his horse from him this depo[nen]t & his company to water him in a Ponde, And Ioye made answear & wished that yt never hadd happened, but he had ben a hundred myles absent [f38 r.] from that place, And dyd also then protest & saye that he would not for a hundred poundes saye that the Complayn[an]t then sought or dyd ryde any by wayes but held & kept the ordynare rode waye, & soe Hakes & other company came vnto this dep[o]n[en]t [illegible] of the company & brake of our then farther speaches ther[e]in together & more to this interrogatorie, this depon[en]t cannot depose.

To the thire interrogatorie, this depon[en]t saieth that he dyd heare S[i]r Henry Cocke S[i]r Robert Banester & dyvers others his ma[jes]t[i]e[s] officers, of his highnes howsehold affirme & saye, that the def[endan]t Walters (vpon his conven[i]on before them for assaulting the Compl[ainan]t in his travell To the lord Denny & sent on his ma[jes]ties service thither) dyd saye he dyd then mystake the compl[ainan]t desiring the sayd officers to remitt & forgeve th[a]t his offence for one man might be like vnto an other or words to that of like effecte, & the sayd officers dyd also saye, that then they intende to have bond the def[endan]t Walters to his good behavior for such his mysdemeanor, hadd not one Henry Stapleford, then vndertaken for him, to w[hi]ch p[u]rpose alsoe this depon[en]t hath seene and rende some of the sayd officers letters, wherevnto for more certentie this depon[en]t referreth himself And more to this interr[ogatorie] this depon[en]t cannot depose saving he this depon[en]t dyd heare S[i]r Henry Cock saye that he dyd send the compl[ainan]t when he was so assaulted to lett the lord Denny vnderstand that the kings ma[jes]tie p[u]rposed to dyne at his lo[rshi]pps howse the next daye or very shortly after.

[f39 r.] To the 4th interr[ogatorie] this depon[en]t saieth th[a]t he doth know that shorlie after the tyme in this interr[ogatorie] menc[i]oned that the Compl[ainan]t was soe assaulted by Walters Hake & Ioye 3 of the def[endan]ts the compl[ainan]t vnderstanding that wourde of discredytt were vnderhand geven furth against him, dyd to this depon[en]ts knowlledg[e] p[ro]cure one Avis Barakey that hadd heare some of the def[endan]ts vtter the same, to be examyned & thereupon she told whoe spake them, wherevpon the Com-

pl[ainan]t arrested Allen Baker his wife & sister, Iames Harlowe & his wife def[endan]ts for vttering & spouking that the pl[ain]t[iff] was a gentleman theefe & that there was a Poulters man in the Shambles that the sayd Stone hadd robbed, & Stone was knowen by a scarfe w[hi]ch he dyd weare aboute his neck & face & that the sayd Bakers man escaped robbery, very hardly & more this depon[en]t to this interr[ogatorie] cannot say.

5 To the vth interr[ogatorie] this depon[en]t saieth as To the thire interr[ogatorie] before & more he cannot depose saving that he hath heare credible, that Henry Stapleford sp[ec]iallie & some others defend[an]ts before th[e] officers of his ma[jes]t[ie]s howsehold dyd gave countenance & incouragem[en]t then vnto Walters, but who the rest of the def[endan]ts were then there with Walters besides Stapleford this depon[en]t knoweth not.

7 To the vijth interr[ogatorie] this depon[en]t saieth that after Walters was called in question, before his ma[jes]ties sayd officers of his highnes hono[r]able howsehold, the defend[an]ts in this depon[en]ts answeare To the iiijth interr[ogatorie] menc[i]oned were arrested in London at the Compl[ainan]ts sute for speaking of the sayd slanderous wourde against him, menc[i]oned in this depon[en]ts answeare To the sayd 4th interr[ogatorie] And this depon[en]t hath credible heare, that afterwarde some of the def[endan]ts dyd p[er]swade Walters, to stand to his acusac[i]on of the pl[ain]t[iff] conc[er]ning his supposed robbery, for yf he dyd not many of the def[endan]ts then sued would be vndone, And more to this interr[ogatorie]. this depon[en]t cannott depose.

[f41 r.] To the 16th interr[ogatorie] this depon[en]t saieth that he dyd heare Henry Bate one of the def[endan]ts saye, that he woulde expend £ 500 but he would hange the Compl[ainan]t (yf Walters would stand to that he before hadd affirmed) in accusing the Compl[ainan]t And alsoe the sayd Bate, Woodbridge, Hake, Ioye, Leake, Baker Raymont, & others def[endan]ts dyd keepe Company with Walters at th[e] assises at Chelmefford in Essex where Walters dyd p[re]ferr an indictam[en]t against the Compl[ainan]t & there stayed & aboode with him vntill after the Compl[ainan]t was freed & hadd payed his fees To the sherifes Clerke of th[e] assises & Cryer & more to this interrogatory he cannott depose.

21 To the 21th interr[ogatorie] this depon[en]t saieth, as To the 16th interr[ogatorie] he before hath sayed more he cannot depose conc[er]ning this Arti[c]le.

25 To the 25th interr[ogatorie] this depon[en]t saieth that he this depon[en]t was p[a]rte at th[e] assises in Essex at such tyme as Walters, dyd gave in evidence, vpon his corp[o]rall othe in dewe forme of lawe mynistred, To the sayd indictam[en]t openlie at the barr, before the whole Court & greate inquest, then there p[a]rte, that the Compl[ainan]t vpon the xxiiith daye of Aprill then before dyd robbe him the s[ai]d Walters within these Countie of Essex at or nere vnto the towne of Vglye & dyd then taken from him the sayd Walters, one hatt one cloke, & xxxs in money of the goods & Chattells of the sayd Raife Walters, and certen Cloth or stuffe of the goods & Chattells of one Peter Weeke gentlman menc[i]oned in the sayd indi[c]tament, wherevnto for more certenty this depon[en]t referreth himselfe And this depon[en]t sayeth, that Mr Iohn Avery then there p[a]rte, at whose howse the tyme & Crye was written, after this s[ai]d [f42 r.] supposed robbery, dyd then affirme & offer to be deposed, that the sayd Walters dyd differ from his discripc[i]on of the cullor of the horses, & p[er]sons that dyd ryde vpon then, & dyd turne from his owne former instructions, of the cullor of one of the horses, To the cullor of a bright sorrell gelding with a white face as the Compl[ainan]ts gelding was, w[hi]ch Mr Avery then shewed furth a copie of Walters owne directions geven, and that Walters dyd then alter vpon his evydence geven therin from his former instructions for huye and Crye, w[hi]ch his evidence was soe boldly and impudentlie don[e] being anymated by his sayd two masters Bate & Woodbridge & the rest of the def[endan]ts then there p[ar]te with him, besides some of Mr Sheriffes men & others were laboured, to have hadd the Complayn[an]t taken into the docke among the felons then alsoe there to be tried, for his greater dysgrace, hadd not the S[i]r Gamalyell Capell knight then highe sherife delt more favouriably with the Comp[lainan]t And more to this interr[ogatorie] this depo[nen]t cannot depose saving th[a]t the Compl[ainan]t dyd offer then & after to some of the def[endan]ts That yf Walters could prouve that he was robbed then at all or fynd out who vntyed him after, he was robbed there then the s[ai]d Compl[ainan]t wuld remitt the cause & gyve him the s[ai]d Walters one hundred plounde.

28 To the 28 interr[ogatorie] this depon[en]t saieth That vpon the saturdaye before, the sayd defend[an]ts convented the Compl[ainan]t before a Iustice of peace for London, the compl[ainant] caused an acc[i]on vpon of his case to be entered in the Compter Poultry London against Raife Walters for slanderous speaches vsed by him against the Compl[ainan]t & that Saturdaye toward night Walters, was arrested thervpon w[hi]ch this depon[en]t knoweth to be

trewe for that this depon[en]t came then that waye & dyd behold him the s[ai]d Walters in the S[e]rvants custodie & Iohn Savage was then also p[a]rte with them And Bake & Woodbridge after bayled Walters thervpon & more to this interr[ogatorie] this depon[en]t cannot depose.

To the 29th interr[ogatorie] this depon[en]t saieth That Walters or some other of the def[endan]ts or Mr Iohn Leake for him or them procured a writt of priviledge out of the com[m]on place returnable in the begynin of Michaelmas the tearme, then after Wil[liam] Gerrard 6 [signature] [f43 r.] but upon an vntrewe suggestyon or, ground, as in sequele appeared after, for S[i]r Wil[liam] Danyell knight, vnderstanding the truth at his returne from the Circuyte, awarded a Procedendo but who paied or defrayed the Charges of the sayd writ of Privilege this deponent knoweth not, nor cannot to this interr[ogatorie] further depose.

To the 30th interr[ogatorie] this depon[en]t saieth that, the def[endan]t Walters or some others of the def[endan]ts for him afterwarde procured an (h[ab]eas Corpus) out of his ma[jest]t[ie]s court comonly called the Kings Benche to remove the said cause againe thither, returnable, lune past oct[o]bris] mich[el]is after, but who payed or disbursed the money for the Charge of the same, he this depon[en]t cannot saye: And afterwarde the Compl[ainan]t intreated this depon[en]t to ryde with him to Mr Iustice Fenner to his house at Heyes & the s[ai]d Iustice Fenner understanding, of their vntrewe surmises before, awarded a Procedendo, againe, And more to this interr[ogatorie], this depon[en]t cannot depose.

31 To the 31th interr[ogatorie] this depon[en]t saieth that, the very daye, the sayd Mr Iustice Fenner awarded the sayd second Procedendo, the sayd def[endan]ts or some of or for them, dyd p[ro]cure an other (h[ab]eas Corpus) out of his ma[jes]t[ie]s sayd bench returnable imediate before Mr Iustice Crooke to remove the sayd cause againe & dyd there putt in baile for the sayd Walters, againe, & the Compl[ainan]t & this depon[en]t returning backe to London with warrant from the sayed Mr Iustice Fenner, dyd vnderstand of thother h[ab]eas Corpus awarded by Mr Iustice Crooke & resorting vnto him, & telling him of the def[endan]ts manner of their Cariage of the cause & what Mr Iustice Fenner & Iustice Danyell hadd both don[e] & shewing the warrant for a procedendo he the sayd [f44 r.] Mr Iustice Crooke, bade the Compl[ainan]t & this depon[en]t to proceede, & answered (fiat iusticia) in the name of god, goe forward, saying further that wee hadd his brother Mr Iustice Fenn[e]

rs warrant & might proceede well throught & more to this interr[ogatorie] this depon[en]t cannot depose.

[3]2 To the 32 interr[ogatorie] this depon[en]t saieth that thervpon Mr Iohn Harborne deceased caused a procedendo to be made, & soe the Compl[ainan]t proceeded to a triall, had a verdict, recovered in damages, £ one C marks beside costs And then, y[m]mediately after the def[endan]ts p[ro]cured the cause to be marked to be heard before S[i]r Henry Roe knight the then lord maior of London, vpon the hearing wherof, before his lo[rd]s[hip]s (in respect Walters the def[endan]t hadd procured soe many and after removinge of that Ac[ti]on) at lenght his lo[rd]s[hip]s told him Walters that he hadd left the all such benifyte that his lo[rd]s[hip]s could not helpe him, & remitted the same cause againe to iudgement, , & more to this interr[ogatorie] this depon[en]t cannot depose.

33 To the 33th interr[ogatorie] this depon[en]t saieth That after iudgem[en]t obtayned and in the (interr[ogatorie]) that the cause soe depended before the sayd lord Maior, the def[endan]ts procured a writt of Error vpon the sayd iudgem[en]t & thervpon a sup[er]sed[ea]s was awarded To the sherifes of London to forbear to mak[e] out execuc[i]on. And Mr Iohn Beale & Henry Bate became bound that the def[endan]t Walters should p[ro]ceede in the sayd wrytt of Error before the lord maior with effect w[hi]ch nev[e]rtheles depended aboute eight or nyne monthes vndicided, & now lately on tuesdaye before the begynning of Trynytie tearme last (as this depon[en]t hath heard) the sayd iudgem[en]t was reversed & soe the pl[ain]t[iff]s damag[e]s & coste therin vtterly left, for that the Compl[ainan]t proceeded ironiosly as they dyd informe & suggeste but who payed the Charge thereof or disbursed the money expended therein this depon[en]t thinketh Mr Beale can tell: And this depon[en]t alsoe saieth that the tyme [f45 r.] when the sayd Bate came to enter bond for p[ro]secucon of the sayd writt of error w[i]th effect, the sayd Bate dyd sayd Bate dyd saye he would expend £ 200 before the Compl[ainan]t should tak[e] benifyt of the sayd iudgement.

To the 34 interr[ogatorie] this depon[en]t saieth that he dyd see that Falke Bromley hadd ben terribly beaten & bytten with teeth his clothes torne then & his shirt Att & w[hi]ch tyme the sayd Falke dyd complayne & saye that Iohn Woodbridge & some other of the def[endan]ts servants vpon or aboute the tyme & at or nere the place in th[is] interr[ogatorie] menc[i]oned dyd assault beate & wound the sayd Falke being then the Compl[ainan]ts servant, & alsoe the sayd Falke dyd then affirme, that the sayd Woodbridge, dyd hold him

downe of p[ur]pose that thother def[endan]ts servants might beate him, his hurte being many & apparrell all torne, w[hi]ch this depon[en]t dyd behold to be grevous, but who dyd soe assault the sayd Falke this dep[o]nent doth not knowe, but doth referr their names To the sayd Falke At w[hi]ch tyme of his soe wounding, the sayd Falke dyd saye in the hearing of this depon[en]t that he told Woodbridge & the rest that he was not the man they loked [sic] for to be revenged vpon, seeing they could not have their p[ro]pose otherwise And more to this interr[ogatorie] he this depon[en]t cannot depose assises hold at Chelmefford when the sayd indictem[en]t was pr[e]ferred against.

35 To the 35th interr[ogatorie] this depon[en]t saieth that the Compl[ainan]t was at Charge at the the Compl[ainan]t & dyd p[ro]duce & bring thither, to manifest & prove his being & Wil[lia]m Gerrard 9 [signature] [46 b] aboode in London all th[a]t day that Walters supposed he was robbed 32 myles from London & for the Compl[ainan]ts good & honest carriage all his life tyme the number of 30 p[er]sons & above, of most of them of good report & greate honestie & many of them were heard speake, but were not admitted to sweare, (th[a]t being not for his ma[jes]tie) And shortly afterthe Iury cleared the Compl[ainan]t & he vpon paym[en]t of his fees to Mr Sherife, To the Clerke of thassises & Cryer was discharged At all p[ro]ceedinge in this d[e]pon[en]ts ex[am]inac[i]on as ys before sett downe, this exa[m]i[n]atio[n] for the most p[ar]te was a beholder & both [illegible] dyd & dare wytnesse And more to this interr[ogatorie] he cannot say.

Ita est Wil[lia]m Gerrard

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[f47 r.] Depo[sitio]nes test[is] Capt[ae] xxxmo die mens[is] Octobr[is] Anno Regni D[omi]ni n[os]tri Jacobi Dei gra[tia] Anglie Francie et Hib[er]nie R[e]gi[s] &c. Septimo Et Scotie 43[^o] Sup[er] Interr[ogatoria] Henrici Bates et alios Defenden[tium] ad s[ectam] Thome Stone, ministrat[ata] &c.

Thomas Stanford servante vnto Mris Wright at the signe of the Crowne W[i]thoute Algate London, of thage of xxvj years or thereabouts beinge sworne and examyned &c.

1 To the Firste Interr[ogacion] this depon[en]t saiethe That hee hathe knowen the sayed Mr Stoane aboute the space of twoe yeares: But vnto his rembraunce he doethe not knowe anye of the def[endan]ts in theise Interr[ogacio]ns mencyoned.

2 To the seconde Interr[ogacion] This depon[en]t saiethe That hee had not at anye tyme anye speache or Comunicac[i]on or Conference w[i]th anye of the sayd def[endan]ts, touchinge the sayed Compl[ainan]t Mr Stoane vnto the vtter most of his this depon[en]ts rem[em]braunce, and therefore hee cannot declare as the Interr[ogacion] further inducethe.

3 To the 3 Interr[ogacion] This depon[en]t is not Examined by direc[ti]on.

4 To the 4 Interr[ogacion] This depon[en]t saiethe that hee now did followe or sollicite this cause on the behalfe of the s[ai]d Compl[ainan]t neither hathe hee giuen anye Instruc[i]ons Counsell or advise or direc[ti]ons vnto any of the Compl[ainan]ts Attorney or Counsell, or receaued or ben promised by, or frome the Compl[ainan]t, anye manner considerac[i]on for soe doeinge: Neither hathe this depon[en]t serued anye subpoenas on anye of the def[endan]ts or vppon anye of the Compl[ainan]ts witnesses, or on his behalf in this Cause, nor receaued anye money reward or recompence in such respect But this depon[en]t saiethe That hee hathe ben Examined as a witness on the Compl[ainan]ts behalfe bothe in this ho[norable] Courte and at Chelmefford in the Countye of Essex and had his dinner payed for at Chelmefford by the Compl[ainan]t, and xijs alsoe gyven by him towards his chardges before his Exa[m]i[n]ac[i]on on his behalf in this ho[norable] Courte, & not any other or greater recompence.

5 To the vth Interr[ogacion] this depon[en]t is not Examined by direc[ti]on.

6 To the 6 Interr[ogacion] This depon[en]t saiethe That neither the sayed Iohn Savage or Will[ia]m Gerrarde did s[e]rue this depon[en]t w[i]th anye processe of Subp[o]ena to testifye in this cause, but the sayed Mr Stone himselve deliv[er]ed vnto him the process of Subpoena to testify in this ho[norable] Courte and then gave vnto this depon[en]t the s[ai]d xijs to beare his chardges.

7 To the seventhe Interr[ogacion] this depon[en]t is not Exami[n]ed by direc[ti]on.

8 To the viijth Interr[ogacion] this depon[en]t saiethe That at the tyme of his Examinac[i]on as a wnesse on the s[ai]d Compl[ainan]ts behaulf, or at anye tyme els[e] hee was not his servante or dwelte in howse w[i]th him neither doethe now: Neither did hee at anye tyme heare that the Compl[ainan]t or his wyfe haue had any speache conference or Comunicac[i]on wth the sayed Wil[liam] Gerrard or Iohn Savadge or other of them concerning this cause,

and therefore hee Cannot make any declarac[i]on as the Interr[ogacion] further inducethe.

9 To the ix Interr[ogacion] This depon[en]t saiethe That hee doeth not knowe whoe was or whoe were the first stirrers vpp or movers of theise suits and controu[e]rsyes [f47 v.] controu[e]rsyes [sic] between the Compl[ainan]t, and the abouemencyoned def[endan]ts or anye of them: Neither doethe hee knowe or believe that the Compl[ainan]t doethe Comence or prosecute this suite by the meanes instigac[i]on or p[ro]curemt of the sayed Will[ia]m Gerard or the Compl[ainan]ts wyefe.

10 To the xth Interr[ogacion] this depon[en]t saiethe that hee doethe not knowe that anye of the sayed def[endan]ts haue mett and assembled themselves togeather in publike or priuate in anye place in or aboute London or els[e] Where before the 23 of October in the sexte yeare of his Ma[jes]ties Raigne that nowe is, to Consulte plott practize conspire or conclude to haue the Compl[ainan]t indicted for robbing of Raphe Walters in this Interr[ogacion] mencyned, ot to take awaye the Compl[ainan]ts lyefe in that respecte, or to begg his lands goods or Chattells of the R[egi]s Ma[jes]tye[s] vnder the coulour thereof And therefore he Cannot declare as the Interr[ogacion] further inducethe.

11 To the xj Interr[ogacion] This depon[en]t saiethe That hee doethe not knowe that the sayed def[endan]ts or anye of them haue at anye tyme disbursed or Lente anye money To the sayed Raphe Walters or for his vse, to vpheld or maynetaine the s[ai]d Raphe Walters in the suits comenced against him by the Compl[ainan]t, or concerning the preferring or prosecuting anye indict[e]m[en]t or other suite by the sayed Raphe Walters againste the Compl[ainan]t.

[signed with a mark]

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[Depositiones] Capt[ae] xx^o die mensis Octobr[is] Anno Reg[ni] D[omi]ni n[ost]ri R[egi]s Jacobi 7^o

Rob[er]te Greeste of the p[ar]ishe of S^t Butolphes Billings gate London weauer of thage of Lx yeaareas of thereabouts beinge sworne and Exa[m]i[n]ed &c.

1 To the Firste Interr[ogacion] this depon[en]t saiethe That hee hathe knowen the Compl[ainan]t Thomas Stoane foure yeaeres or thereabouts, and the

def[endan]ts Henrye Bates aboute twoe yeares Iohn Woodbridge twoe yeares or thereabouts, Iohn Raymonte by the space of 17 or 18 yeares: But the reste of the s[ai]d def[endan]ts hee knowethe not by name & vnto his rem[em]braunce.

2 To the seconde Interr[ogacion] This depon[en]t saiethe that hee neuer had anye speache or conference vnto his knowledge w[i]th anye of the sayed def[endan]ts concerninge the plaintiffe: But hathe hearde speaches as in his deposic[i]on on the Compl[ainan]ts p[ar]t[e] he hathe deposed whereunto he referreth himself remayninge a Record in this honorable] Court[e] 3 4 Et c:

To the 3 4 5 Interr[ogacion] This depon[en]t is not Exaied by direc[t]ion.

6 To the sixte Interr[ogacion] This depon[en]t saiethe That neither the sayed Iohn. Savage or Wil[liam] Gerrard in this Interr[ogatorie] mencyned did s[e]rve this depon[en]t w[i]th anye process of subp[on]ena ad testificand[um] And therefore hee Cannot declare as the Interr[ogacion] further inducethe.

7 8 To the 7 and 8 Interr[ogacion] This depon[en]t is not Examined by direc[t]ion.

9 To the ix Interr[ogacion] this depon[en]t saiethe That hee doethe not knowe what was the Firste mouer and stirrer vpp of this sute & controursye betweene the sayed Compl[ainan]t & the def[endan]ts: Neither doethe hee knowe or beleive that the Compl[ainan]t did or doethe prosecute this suite by the meanes insti gac[i]on or procurem[en]t of the sayed Will[ia]m Gerrard or the plaintiffes wiefe.

10 To the x Interr[ogatorie] This depon[en]t saiethe That this depon[en]t beinge requyred by the Compl[ainan]t when hee was apprehended concerning the robbing of one Walters a Poulter to bee one of his bayle, and beinge put w[i]th him at the howse of S[i]r Stephen Soame k[nigh]t in London one of the justic[e]s of his Ma[jes]ties peace, the sayed Walters was there alsoe, and did before the sayed S[i]r Stephen Soame directlye chardge the sayed Compl[ainan]t Thomas Stone that he had robbed him of xxxs in money a Cloake and a hatt, and the outsyde of a woemans gowne, then alsoe affirminge that at the sayed tyme of the robbery comitted [f48 r.] comitted [sic] the sayed Compl[ainan]t did weare a false bearde And further saiethe that at the same tyme when the sayd Walters chardged the Compl[ainan]t as hee hathe before declared the def[endan]ts Mr Bates & Iohn Wood bridge, in theise Interr[ogatories] mencyned, and alsoe one other of the def[endan]ts named Hawks

were then presente w[i]th the s[ai]d Walters: And after that tyme the sayed Stoane did appeare at a Sessions holden at Newgat[e] for the answearinge of the sayed Walter, where againe this depon[en]t hearde the sayed Walters affirme vnto the Benche that the sayed Compl[ainan]t was the man that did robbed him in that manner he hath before declared then alsoe affirming that hee did weare a false bearde, and being demaunded howe hee knowe it was hee, or howe he could distern him wearing a false beard, hee then replied that he knowe it was hee the s[ai]d Compl[ainan]t that hadd robbed him, by the graye heares that appeared vnder the false bearde, At w[hi]ch tyme he alsoe sawe in the sayed Sessions yarde the sayed three other def[endan]ts Bat[e]s, Woodbridge, and Hawks, And after that Sessions this depon[en]t beinge at the Assises at Chelmefford, hearde the sayed Walters, agayne directly chardge the s[ai]d Compl[ainan]t w[i]th the robbing of him in manner before expressed and then and there sawe the sayed three def[endan]ts w[i]th him, and w[i]th them diuerse others Poulters as this depon[en]t was then tould) : Of other Consultac[i]on plott practize Conclusyion or conspiracye to indict the s[ai]d Compl[ainan]t for robbing of the sayed Raphe Walters, or to take awaye the Compl[ainan]t lyefe in that respecte or to begg his lands goods or Chattells this depon[en]t knowethe not.

11 To the xj Interr[ogatorie] This depon[en]t saiethe That hee doethe not knowe that anye of the def[endan]ts haue disbursed or lente anye money To the s[ai]d Raphe Walters or for his vse, to vphold or mayntayne the s[ai]d Raphe Walters in the suits comenced againste him by the Compl[ainan]t, or the concerninge the proferringe or prosecuting of anye indict[eme]nt or other suite by the s[ai]d Walters against the Compl[ainan]t.

12 Etc: To the xij xiiij xiiij xv and xvj Interr[ogatories] This depon[en]t is not Exa[m]i[n]ed by direc[t]ion.

17 To the xvj Interr[ogacion] This depon[en]t saiethe That he doethe not knowe that Henrye Bates Iohn Woodbridge Allen Baker and Anthonye Hauks def[endan]ts in this Interr[ogacion] named, or anye of them were bounde by Recognizaunce as suertes for the s[ai]d Raphe Walters to giue Euidence againste the Compl[ainan]t at the Summer Assises & Session of Goale Deliuerie holden for the Countye of Essex in the sixte yeare of his Ma[jes]ties Rainge.

18 To the xvijth Interr[ogacion] This depon[en]t saiethe That hee doethe not knowe that the Compl[ainan]t did chardge the sayed def[endan]ts Hawkes

Ioyce Walters of Fellonye, or that anye suche suggestions of the Compl[ainan]t were found by the Iustics to be malitiouse & false, or that the def[endan]ts were therevppon dismissed: But the Compl[ainan]t was as he thincketh at the s[ai]d Sessions at Newgate bounde ouer to answeare the matter touching the s[ai]d Robberye, at Chelmefford, because the fact was supposed to be doen in Essex And this depon[en]t further sayed that as he remembreth S[i]r Stephen Soame did bynde the sayed Walters to gyve in Euidence againste the Compl[ainan]t touching the s[ai]d Robberye, at the sayed Sessions at Newgate But that hee was then & there bounde by the Iustic[e]s there to giue Euidence against the Compl[ainan]t at the sayed Assises to be holden for the Countye of Essex touchinge the s[ai]d Robberye this depon[en]t knowethe not And further vnto this Interr[ogacion] then he hathe before declared he cannot certaynlye depose, savinge that hee verylye beleiuethe that [f48 v.] that [sic] whatsoever the s[ai]d Walters did in this matter hee did it voluntarielye and w[i]thoute anye enforcem[en]t of the Iustic[e]s.

[signed with a mark]

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[Depositiones] Capt[ae] xxx^{mo} die Octobr[is] Anno Reg[ni] D[omi]ni n[ost]ri Jac[obi] R[egi]s 7[^o]

Richard Congreye of the p[ar]ishe of St Peet[e]rs vppon Corenhill [sic] London Glasyer, of thage of xxxv yeares or thereabouts beinge sworne and exa[m]i[n]ed &c.

1 To the First Interr[ogatorie] This depon[en]t saiethe That he hathe knowen the Compl[ainan]t by the space of three yeares or thereabouts Wil[liam] Burt and Isabell his wyfe and Iohn Kefford def[endan]ts he hathe knowen about four yeares, Richard Leake for the space of a yeare or twoe Iohn Vowell by the space of fyve yeares of thereabouts Iohn Woodbridge aboute three yeares, Thom[a]s Okeley and Elizabeth his wyfe about twoe or three yeares, Ieames Harlowe aboute three or 4 yeares and the def[endan]ts Edw[ard] Hunter and Allen Baker hee hath knowen aboute three yeares, the rest of the def[endan]ts in theise Interr[ogatories] named vnto his rem[em]braunce he knoweth not.

2 To the seconde Interr[ogacion] This depon[en]t saiethe That hee beinge in June 1608 one of the Constables of the sayed p[ar]ishe of sainte Peeters vppon Corne,, hill, the sayed Nicholas Kefford def[endan]t, beinge then alsoe one of the Constables of the sayed p[ar]ishe of All Hallowes came vnto this

depon[en]t, w[i]th Thomas Okeley Ieames Harlowe and Allen Baker, and brought vnto him a warrant granted from S[i]r Thomas Bennett K[nigh]t one of the Iustic[e]s of his Ma[jes]ties Peace w[i]thin the Cittye of London, vpon the xiiijth of June 1608: And at the deliu[e]ry of the sayed warrant vnto this def[endan]t the sayed Thomas Okeley Iames Harlowe and Allan Baker were verye instante w[i]th this depon[en]t that nighte to haue entered into the Compl[ainan]ts howse and to haue apprehended him vppon the said warrant The w[hi]ch this depon[en]t p[er]vsinge the and fynding that therein or therbye the s[ai]d Compl[ainan]t was not chardged w[i]th anye Fellonye or suspic[i]on thereof, would not then satisfye their request[e]s wherevpon the sayed xiiijth day of June 1608 the sayed Allan Baker and Raphe Walters brought vnto this depon[en]t another warrante awarded frome the sayed S[i]r Thomas Bennett, for the appr[e]hendinge of the sayed Compl[ainan]t, by in the w[hi]ch warrante it was contayned that the sayed Thom[a]s Stone was directlye chardged to haue comitted a Robberye on the xxiiij of Aprill then laste past in the heighe waye neare Newport ponde in the County of Essex vppon the p[er]son of Raphe Walters, vppon the deliu[e]rye of w[hi]ch warrants the sayed Baker and Raphe Walters required this depon[en]t to enter into the Compl[ainan]ts howse and to apprehende him accordinge to that warrante: And this beinge arreste[d] to haue him doe it that night this depon[en]t prayed them that they would be contente, & that it might bee doen in the nexte morninge, because it was then late, and Mr Stone was not a man that would absente himself as this depon[en]t verylie thoughte: wherew[i]th they beinge contente tooke the warrant agayne of him & trought it backe the nexte morninge, when this depon[en]t goenige therew[i]th vnto the Complain[an]ts howse, knocked at the doare & was bidden p[rese]ntlye come in by a seruant of the Compl[ainan]ts, and p[rese]ntlye acquayntinge the Compl[ainan]t w[i]th the warrante, he readylie wente w[i]th this depon[en]t vnto the s[ai]d S[i]r Tho[mas] Bennett and fyndinge him not stirringe, because the words of the warrant were that he should bringe him before the sayed S[i]r Tho[mas] Bennett or anye other of his ma[jes]ties Iustice w[i]thin the s[ai]d Cittye and this depon[en]t wished soe soone as hee coulede to retourne from that busyness vnto his work, carryed him before S[i]r Stephen Soame k[nigh]t one other of this Ma[jes]ties Iustic[e]s of Peace for the s[ai]d City, of London And further this depon[en]t saiethe that at the tyme afores[aye]d when this depon[en]t made not enter into the Compl[ainan]ts howse vppon the first warrante, the wiefe of the s[ai]d Tho[mas] Okeley sayed ther[e]on

that this depon[en]t was more like to helpe to shyfte the sayed [f49 r.] s[ai]d [sic] Stoane away then to apprehende him vppon anye warrante, or To the like effecte Other conference he hathe not vnto his rem[em]braunce had, or heard of, by anye of the def[endan]ts touchinge the sayed Plaintiffe, savinge such taulk as was had before S[i]r Stephen Soame by some of them, the w[hi]ch hee doethe not nowe certaylye rem[em]ber what it was, or who of them spak then and there.

3 4 5 To the 3 4 and 5 Interr[ogatories] This depon[en]t is not Examined by direc[tion].

6 To the sixte Interr[ogatorie] This depon[en]t saiethe That vnto his rem[em]braunce he doethe not knowe Iohn Savadge or Wil[liam] Gerrard in this Interr[ogacion] mencyned or whether anye of them did serue him w[i]th subpoena ad testificandum, in this Cause: But this depon[en]t sayethe That hee was serued by one that was a Little fellowe & one that was, one of the sayed Compl[ainan]ts Bayle before the sayed S[i]r Stephen Soame as he verylie thinckethe, to appeare in this ho[norable] Courte to testifie on the behaulf of the sayed Compl[ainan]t, whoe vnto his rem[em]braunce vsed noe other speaches but required him to appeare according To the processe, or to that effecte; & gaue him xijs to beare his chardg[e]s, what his name was (though he knowe him by sights) hee knoweth not.

7 To the 7 Interr[ogatorie] This depon[en]t is not Exam[ine]d by direc[tion].

8 To the vijth Interr[ogatorie] This depon[en]t saiethe That, he was not at the tyme of his Examinac[i]on in this ho[norable] Courte on the Compl[ainan]ts behaulf s[e]ruant vnto him or his wyefe or dwelte in his howse, neither is hee nowe, or doethe dwelle therein: Neither doethe he knowe that the Compl[ainan]t or his wyefe haue had anye conference or Comunicacion, either w[i]th the sayed Wil[liam] Gerrard or Iohn Savadge concerning this cause.

9 To the 9 Interr[ogatorie] This depon[en]t saiethe That hee doethe not knowe whoe was or weare the firste Stirrers vpp or movers of theise suits or Controursyes betweene the Plaint[iff] and the def[endan]ts or anye of them: Neither doethe hee knowe or beleive that the Compl[ainan]t did comence or prosecute this suite by the meanes instigac[i]on or procurem[en]t of the s[ai]d Wil[liam] Gerrard or the Compl[ainan]ts wyefe.

10 To the x Interr[ogatorie] This depon[en]t saiethe That he doethe not knowe that the aboue named def[endan]ts or anye of them haue mett & assembled

themselves together either in priuate or publike in anye place orther about London or els[e]where, (otherwise then hee hathe before declared) before the s[ai]d 23: of October in the 6 yeare of his Ma[jes]tye[s reigne]; to consulte plott practize conspire or conclude to haue the Compl[ainan]t indicted for the Robbing of the s[ai]d Raphe Walters, or to take awaye the Compl[ainan]t lyefe in that respect or to begg his goods lands and Chattels of the R[egi]s Ma[jes]tye[s] vnder coulor thereof And therefore hee Cannot further declare as the Interr[ogatorie] inducethe.

11 To the xj Interr[ogatorie] This depon[en]t saiethe That hee doethe not knowe That anye of the above named def[endan]ts haue disbursed or lent anye money To the s[ai]d Raphe Walters or for his vse, to vphold or mayntayne the s[ai]d Raphe Walters in the suits comenced againste him by the Compl[ainan]t, or conc[e]rning the pr[e]ferring of a or prosecuting of anye Indict[e]m[en]t or other suite by the s[ai]d Raph Walters against the Compl[ainan]t.

12 Etc: To the 12 13 14 15 16 Interr[ogatories] This depon[en]t is not Examined by direc[tion].

17 To the xvij Interr[ogatorie] This depon[en]t saiethe That hee doethe not knowe That Henrye Bat[e]s Iohn Woodbridge Allan Baker and Anthony Hawks in this Interr[ogatorie] mencyned or anye of them were bounde by Recognizaunce as sur[e]tyes for the sayed Raphe Walters to give Euidence against the Compl[ainan]t at the Somer Assises and Session of Gaol deliv[e]rye holden for the Countye of Essex in the 6 yeare of his Matyes Raine.

18 To the xvijth Interr[ogatorie] This depon[en]t saiethe That hee doethe not knowe that the Compl[ainan]t chardged the def[endan]ts Hawks Ioye, and Walters of Felloney. or that anye suche suggestions of the Compl[ainan]t were founde malitiose & false by anye Iustices: or that the def[endan]ts were thervppon dismissed, and the Compl[ainan]t bounde ouer to appeare [f49 v.] appeare at the Assises mencyned in this Interr[ogatorie] to answeare To the s[ai]d Robberye: Neither doethe hee knowe or hathe heard that the Iustices force the def[endan]t Walters to bee bounde to gyve in Euidence against the Compl[ainan]t at the sayed Assises for the County of Essex for the sayed Robbery or Cann more certaynlye depose vnto this Interr[ogatorie].

Richard Congrey

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Iohn Savadge of the p[ar]ishe of S^t Katherine Cree Church London Sadler of thage of xliiij yeares of thereabouts beinge sworned and Exa[m]i[n]ed &c.

1 To the First Interr[ogatorie] depon[en]t saiethe That he doethe knowe the Compl[ainan]t Thomas Stone and hathe knowe him by the space of xxx yeares or thereabouts, And the def[endan]ts Henrye Bates by the spac[e] of a yeare and a haulfe or thereabouts, Nicholas Kefford and Wil[liam] Baker hath knownen by the space of a quarter of a yeare, or thereabouts, the wyef of the s[ai]d Bate[s] he hath knownen sithence Saturdaye laste, Edward Leake about a year and a haulfe The rest of the def[endan]ts hee knowethe not by name yet he thinckethe by sight hee knoweth diuerse of them.

To the second Interr[ogatorie] this depon[en]t saiethe That he cannot further, depose vnto this Interr[ogatorie] then hee hathe deposed in his deposic[i]on at this Exa[m]i[n]ac[i]on as a witness on the Compl[ainan]ts Court & therefore referreth himself therevnto.

3 To the 3d Interr[ogatorie] This depon[en]t saiethe That hee did not nor anye of his seruants or apprentizes or anye other by his meanes aduise direc[ti]on or procurem[en]t drawe contriue invente write or engrosse in pap[er] or p[ar]ch[m]ent anye Interr[ogatorie]s ministred vnto the Compl[ainan]ts or the def[endan]ts witnesses in this Cause or gaue anye direc[ti]ons Instruc[ci]ons or aduise thervnto.

4 To the 4th Interr[ogatorie] This depon[en]t saiethe That hee doethe not followe sollicite or pr[o]sequete this Cause on the Compl[ainan]ts behaulfe or hath giuen anye instruc[ci]ons aduise or direc[ti]ons to anye of the Compl[ainan]ts Counsell or Attorney, or recouered from him or of him anye thing for soe doing: But hathe serued Subp[o]enas vpon one Monger a Glasyer one Bromeley a grocer and one Avis Barra[key] witnesses on the plaint[iff]s behaulfe in this Cause, but receaued noe money reward or recompence for his paynes therein.

5 To the vth Interr[ogatorie] This depon[en]t saiethe That the s[ai]d Wil[liam] Gerrard in this Interr[ogatorie] mencyned doethe sometymes vse as he thinckethe to sollicit this Cause in the behaulf of the Compl[ainan]t, but in what kinde or manner he doethe sollicite the same this depon[en]t knowethe not.

6 To the vj Interr[ogatorie] This depon[en]t saiethe That vnder Correc[ci]on of this ho[norable] Courte hee thinckethe that this Interr[ogatorie] is not

meant or entended for this depon[en]t to bee Exa[m]i[n]ed. [illegible].

7 8 To the 7 and 8 Interr[ogatorie] This depon[en]t is not Exa[m]i[n]ed by direc[ti]on.

9 To the Neynth Interr[ogatorie] This depon[en]t saiethe That hee doethe not certaynly knowe whoe was the firste movers or stirrers vpp of theise suits and Controuersyes betweene the Plaint[iff] and thaboue named def[endan]ts or any of them but hee verylie beleiuethe that one Raphe Walters was one of them, for hee hathe hearde the sayed Walters accuse the Compl[ainan]t w[i]th the robbing of him the sayed Walters boathe at the Sessions howse at Newgat[e] and alsoe in the open Assises holden for the Countye of Essex at Chelmefford: yet that the sayed Compl[ainan]t doethe vppon anye acasyon prosecute this suit by the meanes instigacion or procurem[en]t of the sayed Wil[lia]m Gerrard, or the Compl[ainan]ts wyef hee neither knowethe or beleivethe.

10 To the x Interr[ogatorie] This depon[en]t saiethe That hee doethe knowe That the sayed def[endan]t Bat[e]s was at the Sessions howse of Newgate w[i]th the sayed Walters when he chardged the sayed Compl[ainan]t that the had robbed him: And alsoe that the sayed def[endan]ts Bat[e]s and Gerrard Leake were at the Assises w[i]th the sayed Walters holden at Chelmefford, when the sayed Walters there likewise chardged the Compl[ainan]t ther[e] w[i]th robbinge of him But of anye other meeting in priuate [f50 r.] in private or public no in anye place in or aboute London to consult plott practize conspire or conllude to haue the Compl[ainan]t indicted for robbing of the sayed Raphe Walters, or to take away the Compl[ainan]ts lyefe or to begg his his lands goods or Chattells in that respecte or vnder coulour theroff he knowethe not.

11 To the xj Interr[ogatorie] This depon[en]t saiethe That hee doethe no knowe That any of the above named def[endan]ts haue disbursed or lente anye money To the s[ai]d Raphe Walters or for his vse to vphold or maintayne the sayed Raphe Walters in the suits Comenced against him by the Compl[ainan]t or concerning the preferring or prosecuting of anye indicted or other suite by the sayed Raphe Walters against the Compl[ainan]t.

12 To the xij Interr[ogatorie] This depon[en]t saiethe That hee doethe no knowe that Falke Bromley late seruante vnto the Compl[ainan]t and one that was seruant to Edward Leake one of the def[endan]ts on or aboute the 13 daye of October in the 6 yeare of his Ma[jes]ties Reigne did fighte or stryve

together in the night tyme in the R[egi]s highwaye at Hoddesdone in the Countye of Hertford, or any occasyon thereof or by whose meanes or procurem[en]t they did soe fight as it is supposed Or that it was by the meanes or procurement of Iohn Woodbridge one of the aboue named def[endan]ts, or that the sayed Iohn Woodbridge then attempted to doe any thing in the p[ar]tinge and sepa[ra]tinge of the s[ai]d Bromley and the seruante of the fores[ai]d Leake frome fightinge thone w[i]th thother or to pr[e]serue his Ma[jes]tyes peace: Neither doethe hee knowe that the sayed Woodbridge did them or at any other tyme, or place in anye sort assault beate wounde strike or sett vpon the s[ai]d Bromley whilest hee was seruante To the Compl[ainan]t: Neither doethe hee knowe whether the sayed Woodbridge did offer To the sayed Bromley anye violence at all or not or Cann depos[e] further vnto this Interr[ogatorie] sauvinge that he thinckethe that the sayed Bromeley was about the tyme in the Interr[ogatorie] mencyned servant To the Compl[ainan]t.

13 et 14 To the 13 and 14 Interr[ogatories] This depon[en]t is not Exa[m]i[n]ed by direc[ti]on.

25 To the xvth Interr[ogatorie] this depon[en]t saiethe That hee doethe knowe That the Compl[ainan]t had Iudgm[en]t to recouer damag[e]s in an Acc[i]on of the Case by him Comenced & prosecuted against the sayed Raphe Walters in the Sheryffs Court in the Guildhall of London: But that the sayed Bat[e]s did aduise him the s[ai]d Walters to absente himselfe vntill a writt of Error might be sued out for the stayenge of Exequuc[i]on this depon[en]t knowethe not, yet this def[endan]t [sic] further saiethe that the sayed Walters did absente himself as he heard or could not beleive founde vntill a writt of error was sued forth for stayenge of the Exequuc[i]on vppon that Iudgm[en]t And more vnto this Interr[ogatorie] he Cannot certaynelye depose saving that he knowethe that the s[ai]d Walters did walke openlye and shewed himself in publike not longe after the s[ai]d writt of Error was sued out and had receaued alloweance.

16 To the xvj Interr[ogatorie] This depon[en]t is not Exa[m]i[n]ed by direc[ti]on.

[17] To the xvij Interr[ogatorie] This depon[en]t saiethe That hee doethe not knowe but hathe heard That the def[endan]t Henrye Bates, and one other w[i]th him (bat [sic] whether The s[ai]d Iohn Woodbridge Allen Baker and Anthonye Hauks in this Interr[ogatorie] mencyned were anye that was Bounde w[i]th him or noe he knoweth not or hathe heard) were bounde by Recognizaunce as sur[e]tyes for the s[ai]d Raphe Waltes to giue Euidence

against the Compl[ainan]t at the Somer Assises and Session of Goale deiuerie holden for the Countrey of Essex in the sixte yere of his Ma[jes]ties Raigne.

18 To the xvij Interr[ogatorie] This depon[en]t saiethe That hee doethe not knowe That anye the Compl[ainan]ts Suggestions in chardginge the sayed Hauks Ioy and Walters w[i]th felonye as in this Interr[ogatorie] is pr[e] supposed were found false & malitouse and that by anye Iustic[e]s and or that hee chardged them, or that they were therevppon dismissed But hee knowethe that the Compl[ainan]t was bounde over to appeare at the Assises holden for the Countye of Essex to answeare the matter of the Robberye [f50 v.] wherew[i]th the sayed Walters had chardged him, and that the s[ai]d Iustic[e]s at the Sessions at Newgate, (where the Compl[ainan]t was chardged by the sayed Walters to haue comitted the s[ai]d Robbery). did requyer & cause him the sayed Walters to bee bounde to giue in Euidence against the Compl[ainan]t at the then next Assises to be holden for the County of Essex for the sayed Robberye or concerning the same: But whether the s[ai]d Walters would haue prosecuted the sayed matter against the Compl[ainan]t or not yf the Iustic[e]s afores[ai]d had not taken bond of him to giue in Euidence as he hath before declared, this depon[en]t knoweth not, yet he saiethe that he hearde the sayed Walters at the sayed Sessions at Newgate sayed that seeing hee had once sayed that the s[ai]d Compl[ainan]t had committed the s[ai]d robbery, he would saye the same agayne thoughe hee were pulled in peec[e] s w[i]th wild horses, or to that effecte.

Iohn: Sauadge

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[f51 v.] [Depostiones] Capt[ae] vltimo die mensis Octobr[is] Anno Regni D[o]mi[ni] n[ost]ri Jacobi R[egi]s &c. 7[^o]

Margery Bromeley of the p[ar]ishe of S[ain]t Peeters th vppon Cornehill London widdow of thage of 63 yeres or thereabouts beinge sworn Examined &c.

1 To the Firste Interr[ogatorie] This depon[en]t saiethe That shee doethe knowe the Compl[ainan]t, vnto whence shee is mother in law & hath knowen him [illegible] or [illegible] yeaes, And hathe knowe the def[endan]ts Henry Bat[e]s aboute fyve or sixe yeaes Nicho[las] Kefford aboute xx yeaes Wil[liam] Burt aboute xvij yeaes and Isabell his wyefe aboute xij yeaes Edward Leake and Richard Keyes aboute xj yeaes Iohn Vowell aboute 4 or

5 yerares Iohn Woodbridge aboute 3 or 4 yeares Iohn Raymont about 5 or 6 yeares Thomas Okeley aboute 4 yeares Elizabeth his wyfe about xij yeares Ieames Harlowe and Elizabeth his wyfe aboute 3 or 4 yeares, Tho[mas] Moyse aboute xx yeares Susan his wyfe aboute 3 or 4 yeares Edward Hunter about 20 yeares and Allan Baker aboute 5 or 6 yeares.

2 To the second Interr[ogatorie] This depon[en]t saiethe she had neuer anye speache or or Conference w[i]th anye of the def[endan]ts aboute s[ai]d concerning the s[ai]d Compl[ainan]t But diu[e]rse of the def[endan]ts afors[ai]d haue come vnto this depon[en]ts & the Compl[ainan]ts howse and openlye and unlooked for vsed manye evell & raylinge speaches againste the sayed Compl[ainan]t viz the sayed Nicho[las] Kefford hathe com[e] thither and openly sayed that hee would pepper the Compl[ainan]t make him sell his office and flye the streete where hee dwelte, Wil[liam] Burte likewise at an other tyme coming thither sayed that he would not haue suche a thing against him as they had againste the Compl[ainan]t, for a £ C, and that they woald hang him yf ther[e] were noe more men alyve, and that xxiiij purses were better then one or words To the like effecte w[i]th many other badd words w[hi]ch this depon[en]t doethe not nowe p[er]fectly rem[em]ber And the sayed Hunter coming alsoe thither hathe sayed vnto her openly in the streete, that they would hainge the s[ai]d Compl[ainan]t yf they founde a hole in his Coate, yf there were noe more men: And the s[ai]d Okeley comming thither alsoe, sayed openlye vnto her daughter, call mee anye thinge but call mee not theife yf you doe I will haue you in the Starr Cham ber, or To the like effecte, And the sayed Allan Baker comming thither alsoe hathe openlye in the streete vnto her that the s[ai]d Compl[ainan]t was a gent[le]man theife. And moreou[e]r this depon[en]t saiethe That at Chelmefford when the Compl[ainan]t was called then there Bat[e]s sayed that they would hange the Compl[ainan]t or els[e] it should rest him Cold, All w[hi]ch speaches haue ben vttered when sithence the tyme that this def[endan]ts s[ai]d sonn in lawe was chardged w[i]th the supposed robbinge of the sayed Walters, but the certaynty of the days tymes she cannot more certaynlye declare: And besyde theise speaches she is assured that boathe theise def[endan]ts vttering the same, haue likewise vttered others, & some other of the def[endan]ts the same or the like w[hi]ch vppon the suddayne shee cannot p[ar]ticulerlye rem[em]ber or sett downe, or mor[e] certaynlye depose vnto this Interr[ogatorie].

3 4 5 To the 3 4 and vth Interr[ogatories] This depon[en]t is not Exa[m]i[n]ed by direc[ti]on.

6 To the vj Interr[ogatorie] This depon[en]t saiethe That neither the sayed Iohn Savadge or Wil[liam] Gerrard in this Interr[ogatorie] mencyned did serue her w[i]th anye processe of subp[ro]ena to testifie in this Cause.

7 To the vij Interr[ogatorie] this depon[en]t saiethe That shee is mother in lawe vnto the Compl[ainan]t as shee hate before deposed and dwellethe in howse w[i]th him and soe did at the tyme shee was examined as a witnesses on hi behaulf.

8 To the 8 Interr[ogatorie] This depon[en]t is not Exa[m]i[n]ed by direc[ti]on.

9 To the ix Interr[ogatorie] This depon[en]t saiethe That shee doethe not knowe or believe that the Compl[ainan]t vppon anye occasyon at the instigac[i]on or procurem[en]t or by the meanes of Wil[liam] Gerrard or the Compl[ainan]ts wyfe, did at anye tyme or doethe nowe prosecute this suite in this ho[norable] Courte: But shee verylie believeth that [f 52 r.] that the s[ai]d Compl[ainan]t doethe if his owne moc[i]on prosecute the same in respecte of the greate wronge doen vnto him by the def[endan]ts: But whoe were the firste movers or stirres vpp of the controuersyes betwixte the Compl[ainan]t and the def[endan]ts shee doethe not certaynelye knowe, yet shee hath heard & believeth that the def[endan]ts Woodbridge, Bat[e]s and Walters were the firste causers of them.

10 To the x Interr[ogatorie] This depon[en]t saiethe that at the Assizes holden at Chelmefford when the sayed Compl[ainan]t was there indicted for the robbing of the sayed Raphe Walters, the def[endan]ts Bates Hawks Woodbridge & Leake, were there and gaue asistaunce vnto & conferred w[i]th the sayed Walters there, whereby, and by the speaches shee seuerallye hearde frome some of them and others Whereof hee hathe before deposed, shee is verylye p[er]svaded that the[i]re word[e]s and doings in that busyness did proceade from practyze conspiracy and conclusyon amongeste them to haue taken awaye the s[ai]d Compl[ainan]ts lyfe by endicting him for the the supposed robbing of the s[ai]d Raphe Walters, and therevppon to haue begged his lands goods & chattells of the R[egi]s Ma[jes]tye[s] And more vnto this Interr[ogatorie], shee cannot certaynlye depose then shee hathe before deposed.

11 12 To the xi & 12 Interr[ogatories] This depon[en]t is not Exa[m]i[n]ed by direc[ti]on.

13 To the xiiij Interr[ogatorie] This depon[en]t saiethe That shee hathe not

had vnto her rem[em]braunce anye Conference or speaches w[i]th the Compl[ainan]t at any tyme sithence the 23 day of October in this Interr[ogatorie] mencyned tounchinge the def[endan]ts Thom[a]s Okeley and his wyfe in this Interr[ogatorie] named: Neither did this depon[en]t at any tyme demaunde of the Compl[ainan]t for what cause or reason hee sued or troubled a brother of her Companye meaninge the sayed Ockley: Neither did the s[ai]d Compl[ainan]t at any tyme sithence the s[ai]d 23 of October vnto her rem[em]braunce, saye that the sayed Okeley was an honest man & his honest neighbor, & that hee had neuer offended him, or vsed anye speache vnto her knoweledge to such effecte touching the s[ai]d Okley [sic] Neither did the Compl[ainan]t at any tyme saye vnto her that the reason whie hee sued the s[ai]d Okley in this ho[norable] Courte was by occasyon of some speaches vsed by the wyfe of the s[ai]d Okeley, Neither did hee vse anye speaches vnto her tending vnto that effecte.

14 To the 14 Interr[ogatorie] this depon[en]t is not Exa[m]i[n]ed by direc[ti]on.

15 To the xvth Interr[ogatorie] This depon[en]t saiethe That hee hath heard that the Compl[ainan]t had a Iudgm[en]t to recouer damag[e]s in an Acc[i]on of the case by him comenced against the s[ai]d Walters in the Guildhall at London But knowethe not that the s[ai]d Bat[e]s did thervpon aduise him the s[ai]d Walters to absente himselfe vntill a writte of error might be sued out for stayenge of Exequuc[i]on, or canno[t] depose further vnto this Interr[ogatorie].

16 17 18 To the 16 17 and 18 Interr[ogatories] This depon[en]t is not Exa[m]i[n]ed by direc[ti]on.

[signed with a mark]

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[f52 v.] [Depositiones] Capt[ae] vij^{mo} die mensis Novembr[is] Anno Regni D[omi]ni n[ost]ri R[egi]s Jac[obi] 7[^o]

Avis Barracke of London spinster of thage of xlty yeares or thereabouts beinge sworne and Exa[m]i[n]ed &c.

1 To the Firste Interr[ogatorie] This depon[en]t saiethe That shee hathe knowen the Compl[ainan]t aboute 4 yeares, Nicho[las] Kefford aboute xij yeares, Wil[liam] Burte about a xij^{en} yeares, & his wyef aboute xij yeares Edward Leake aboute the space of ix or x yeares, Richard Keyes aboute xij yeares

Jo[hn] Vowell aboute iiij or v yeares Iohn Tho[mas] Okeley and Elizab[ethe] his wyefe aboute iiij or 5 yeares, Ieames Harlowe aboute xij yeares and Elizab[ethe] his wyef about 4 or 5 yeares Tho[mas] Moyse aboute vj yeares Edward Hunter xij or xvj yeares, & Allen Baker about vj yeares the rest of the def[endan]ts vnto her rem[em]braunce shee knowethe not.

2 To the second Interr[ogatorie] This depon[en]t saiethe That shee hathe not at anye tyme had anye speache or conference w[i]th anye of thaboue named def[endan]ts or heard anye, or knowethe that anye of them had conference together touchinge the Compl[ainan]t, sauinge that this depon[en]t being at the howse of the s[ai]d Ieames Harlowe hearde Elizabethe his wyef saye that yf it were true that was reported abroad touching the s[ai]d Mr Stone, he was a gent[leman] theefe, her howsband the sayed Ieames Harlowe being then & there presente reproued her for speakeinge the same, & bide her hould her peace and at an other tyme this depon[en]t being at the howse of Allen Baker aboute named then a seruant named Phillipp of the s[ai]d Allen Baker sayed that the s[ai]d Compl[ainan]t Mr Stoane was knowen to bee one of these that robbed the s[ai]d Raphe Walters by a scarffe that hee then did weare, but neither the sayed Allen Baker or his wyefe were p[rese]nte or hearde the same, or anye other savinge this depon[en]t onlye.

3 4 5 To the 3 4 and 5 Interr[ogatories] This depon[en]t is not Exa[m]i[n]ed by direc[tion].

To the 6 Interr[ogatorie] This depon[en]t saiethe That the sayed Iohn Savadge in this Interr[ogatorie] mencyned did serue this depon[en]t w[i]th process to testifie in this Cause on Mr Stones behaulfe whoe then sayed vnto her that shee must goe alonge w[i]th him to witness aboute the s[ai]d Mr Stone his busyness, but of other words or gesture by the sayed Iohn Savadge shee rembreth not, or cann[ot] further depose vnto this Interr[ogatorie].

7 8 To the vij and 8 [sic] Interr[ogatorie] This depon[en]t is not Exa[m]i[n]ed by direc[tion].

9 To the ix Interr[ogatorie] This depon[en]t saiethe That hee doeth not knowe whoe was or were the first stirrers or mover of theis suits betweene the Compl[ainan]t and the def[endan]ts, or that the Compl[ainan]t doethe vppon anye occasyon comence or prosequut[e] this suite by the meanes instigac[i]on or procure[m]nt of the s[ai]d Wil[liam] Gerrard or the Compl[ainan]ts wyefe, neither canne she affirme the same of her beleife.

10 To the x Interr[ogatorie] This def[endan]t saiethe That shee doethe not knowe that anye of the aboue named def[endan]ts haue mett and assembled them selues together ather in publique or priuate in anye place in or aboute London or els[e] where before the xxij day of October in the yeare of his Ma[jes]ties Raigne to consulte plot practize conspire or conclude to haue indicted the Compl[ainan]t for robbinge of the s[ai]d Raphe Walters in this Interr[ogatorie] mencyned or to take awaye the Compl[ainan]ts lyeef in that respecte or to begg his lands goods or Chattells of the R[egi]s Ma[jes]tye[s] under color thereof.

11 To the xj Interr[ogatorie] This depon[en]t saiethe That shee doethe not knowe that the aboue named def[endan]ts or any of them haue disburdsed or lent money To the s[ai]d Raphe Walters or for his vse to upp hold or maintayne the s[ai]d Raphe Walters in the suits comenced againste him by the Compl[ainan]t or con[c]erninge the preferring or prosecutinge of anye Indictm[en]t or other suite by the s[ai]d Walters against the s[ai]d Compl[ainan]t.

12 &c: To the 12 13 14 and 15 Interr[ogatories] This depon[en]t is not Exa[m]i[n]ed by direc[ti]on.

16 To the xvj Interr[ogatorie] This depon[en]t saiethe That she Cannot further depose vnto this Interr[ogatorie] then shee hathe before deposed To the second Interr[ogatorie].

17 18 To the 17 and 18 Interr[ogatorie] This depon[en]t is not Exa[m]i[n]ed by direc[ti]on.

[signed with a mark]

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[f53 r.] [Depositione] Capt[ae] xvij^{mo} die mens[is] Novembr[is] Anno Reg[ni] D[omi]ni n[ost]ri Jacobi R[egi]s 7^o

Charles Yeomone of London Scryvenor of thage of 35 yeares or thereabouts beeing sworned and Exa[m]i[n]ed &c.

To the Firstte Interr[ogatorie] This depon[en]t saithe That hee hathe knowe the Compl[ainan]t aboute the space of 5 yeares, the def[endan]t Henry Bates about the space of 12 yeares Nicho[las] Kyfford about 3 or 4 yeares, the def[endan]t Woodbridge hee sawe once at S[i]r Stephen Somes, but hathe noe other knoweledge But the other def[endan]ts vnto his rem[em]braunce he knowethe not, by name yet hee thinckethe that hee hathe seene diuerse

of them sithencethe tyme the Controursyes began betweene them and the Compl[ainan]t.

2 To the second Interr[ogatorie] This depon[en]t saiethe That hee hathe not had anye conference or speache w[i]th anye of the aboue named def[endan]ts touchinge the plaint or hearde anye: Sauinge that this depon[en]t being at the howse of S[i]r Stephen Some K[nigh]t in London in June 1608 by ocasyon of the plaint[iff] beinge there called in question by one Raphe Walters for and concerning a supposed robbery comitted vppon the p[er]son of the sayed Walters, this depon[en]t beinge then one of the Compl[ainan]ts Bayle, hee then and there heard one called by the name of Woodbridge (whome hee takethe to bee the def[endan]ts Iohn Woodbridge) saye (vppon some taulke that the sayed Woodbridge had then before made in the tyme of the s[ai]d S[i]r Stephen Some his hearinge of that matter (but what the same was hee nowee rembreth not) and vppon the speeches of S[i]r Stephen vnto thereabouts sayed Woodbridge to this effecte: (what are you, I praye God yo[u]r heaud bee not in the p[ra]ye) vnto te sayed S[i]r Stephen that the sayed Walters was his man and the money that hee the s[ai]d Walters was robbed of or had taken frome him, was his the s[ai]d Woodbridg[e]s or To the like effecte.

3 To the thirde Interr[ogatorie] This depon[en]t saiethe That neither this depon[en]t or anye of this Apprentic[e]s or seruants by his meanes aduise direc[ti]on or procurem[en]t did drawe contryve invent write or engross in pap[er] or p[ar]chm[en]t anye Interr[ogatorie] either for the Exa[m]i[n]ac[i]on of the def[endan]ts, or the Compl[ainan]ts witnesses in this Cause: Neither did hee gyue anye direc[ti]ons Instruc[ci]ons or aduise thereunto.

4 To the 4th Interr[ogatorie] This depon[en]t saiethe That hee doeth not follow sollicite or prosequut[e] this Cause on the Compl[ainan]ts behaulfe in this Caus[e] Neither hathe hee gyven any Instruc[ci]ons aduise or direc[ti]ons vnto the Compl[ainan]ts Counsell or Attorne, or serued anye Subpo[e]nas: vppon any of the def[endan]ts or the Compl[ainan]ts witnesses in this Cause and therefor[e] h[ee] Cannot declare as the Interr[ogatorie] further inducethe.

5 To the vth Interr[ogatorie] This depon[en]t saiethe That hee doethe not knowe That Iohn Savadge or Wil[liam] Gerrard in this Interr[ogatorie] mencioned doe followe followe sollicite or prosequute this Cause for or on the Compl[ainan]ts behaulf and therefore hee Cannot declare as the Interr[ogatorie] inducethe.

6 To the 6 Interr[ogatorie] This depon[en]t saiethe That vnto his rem[em]braunce neither the sayed Iohn Savadge or Wil[l]iam Gerrard did serue this depon[en]t w[i]th anye process of Subp[oena] ad testificand[um] in this Cause.

7 8 To the xij and viijth Interr[ogatorie] This depon[en]t is not Exa[m]i[n]ed by direc[ti]on.

9 To the ix Interr[ogatorie] This depon[en]t saiethe That hee doethe not knowe whoe was the first stirrer or stirrers of theise controuersyes betweene the Compl[ainan]t and and [sic] thaboue named def[endan]ts or anye of them: Neither that the Compl[ainan]t did or doethe vppon anye occasyon, by the meanes of the s[ai]d Wil[l]iam Gerrard or the Compl[ainan]ts wyfe comence or prosequeut[e] this suit, or by their or ather of their instigac[i]on or procurem[en]t, neither canno[t] hee affirme the same of his beliefe.

[f53 v.]10 To the x Interr[ogatorie] This depon[en]t saiethe That hee doethe not knowe That the aboue named def[endan]ts or anye of them haue mett and assembled thenselues either in publique or priuate in or anye place in or about London or els[e] where before the xxijth of October in the 6 yere if his Ma[jes]ties Reigne (sauinge at the tyme afiresayed when this depon[en]t hearde the sayed Woodbridge vse the speaches before deposed of there were then alsoe some others that were called Poulters, w[hi]ch hee thinckethe were some of the before named def[endan]ts but howe manye of them or w[hi]ch of them they were he knoweth not) to consulte plott practize conspire or conclude to haue the Compl[ainan]t indicted for the supposed robbing of the s[ai]d Raphe Walters, or to take awaye the Compl[ainan]ts lyefe in that respect or to begg his lands goods or Chattells of the R[egi]s Ma[jes]tye[s] by that coulour.

11 To the xj Interr[ogatorie] This depon[en]t saiethe that hee doethe not knowe That anye of the aboue named def[endan]ts haue disbursed or lent any somes or some of money To the s[ai]d Raphe Walters or for his vse to vphould or mayntayne the sayed Walters in the suits Comenced against him by the Compl[ainan]t or concerning the pr[e]ferring of a Bill of Indictm[en]t or other suit by the s[ai]d Raphe Walters against the Compl[ainan]t.

12 &c: To the 12 13 and 14 Interr[ogatories] This depon[en]t is not Exa[m]i[n]ed by direc[ti]on.

15 To the 15 Interr[ogatorie] This depon[en]t saiethe That hee was p[rese]

nte at a Tryall of an Acc[i]on of the Case by the Compl[ainan]t comenced and p[ro]sequuted in the Guild Hall London in the Sheryffs Court, and hearde the Iury vppon that tryall comdempne the s[ai]d Walters in one hundreth Ma[j]-estyes] R[egi]s damag[e]s And more vnto this Interr[ogatorie] hee Cannot certaynely depose.

16 To the xvj Interr[ogatorie] This depon[en]t is not Exa[m]i[n]ed by direc[ti]on.

17 To the xvij Interr[ogatorie] This depon[en]t saiethe That hee doethe not knowe that Henrye Bat[e]s Iohn Woodbridge Allen Baker and Anthonye Hawks in this Interr[ogatorie] mencyned or anye of them were bounde by Reconizaunce as suertyes for the sayed Raphe Walters to gyve Euidence against the Compl[ainan]t at [the] sommer Assises and Gaole deliu[e]ry holden for the Countye of Essex in the sixte yeare of his Ma[jes]tyes Raigne.

18 To the xvij Interr[ogatorie] This depon[en]t saithe that hee doethe not knowe that anye suggestions of the Compl[ainan]t against Hawks Ioye and Walters were founde by anye Iustic[e]s to bee malitiose and false or that they were therevppon dismissed, and the Compl[ainan]t bounde ouer to appeare at the next Assises holden for the County of Essex to answeare the s[ai]d Robbery: Or that the Iustic[e]s did force the sayed Walters to giue in Euidence against the Compl[ainan]t at the sayed Assises for the County of Essex: But hathe heard that the Compl[ainan]t was bounde ouer to answeare the matter at the s[ai]d Assises for the Countye of Essex and that the s[ai]d Walters was alsoe bounde to giue Euidence against him there touching the sayed Robbery But whether the s[ai]d Walters would haue prosecuted the anye such matter against the Compl[ainan]t had hee not ben ther[e]to vrged and enforced, as it is supposed, or not this depon[en]t doethe not knowe.

p[er] me Carolu Yeoman

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[f54 r.] [Depositiones] Capt[ae] [Die] 2^o Nouembr[is] Anno Regni D[omi]ni n[ost]ri R[egi]s Jacobi 7^o

Rob[er]te Halle of the Burroughe of Southmarke in the Countye of Surrey yeoman of thage of 36 yeares or thereabouts beinge sworne & Exa[m]i[n]ed & c.

To the First Interr[ogatorie] This depon[en]t saiethe That hee hathe knowe

the Compl[ainan]t adozen yeares thereabouts, And hathe knowen Henrye Bat[e]s the def[endan]t aboute a yeare and a haulfe Wil[liam] Burte about x yeares Iohn Woodbridge Edward L[e]ake aboute a yeare and a haulfe Thom[a]s Moyse about xx yeares and his newe wyfe aboute 3 or 4 yeares The rest of the def[endan]ts afores[ai]d vnto his rem[em]br[auce] by name he knoweth not, thoughe by sight thinckethe hee doethe knowe diurse of them.

2 To the seconde Interr[ogatorie] This depon[en]t saiethe That he had not anye speache or conference w[i]th anye of the def[endan]ts aboue named in theise Interr[ogatories], or heard anye: Neither doethe hee knowe that anye of the same def[endan]ts haue had anye speache or conference togeather at anye tyme concerning the plaint[iff] And therfore hee Cannot declare as his Interr[ogatorie] further inducethe.

3 4 5 To the 3 4 and 5 Interr[ogatories] This depon[en]t is not Exa[m]i[n]ed by direc[ti]on.

6 To the 6 Interr[ogatorie] This depon[en]t saiethe That neither Iohn Savadge or Wil[liam] Gerrard in this Interr[ogatories] named did serue this depon[en]t w[i]th any processe of Subp[oena] ad testificand[um] in this Cause or vsed anye speeches gestures or behauior vnto him aboute the seruing of anye such processe.

7 8 To the 7 and viijth Interr[ogatorie] this depon[en]t is not Exa[m]i[n]ed by direc[ti]on.

8 To the ix viij Interr[ogatorie] This depon[en]t saiethe That at the tyme of his Exa[m]i[n]ac[i]on as a witnesse on the Compl[ainan]ts behaulfe in this ho[norable] Courte, he was neither seruante vnto him or dwelte in his howse w[i]th him neither doethe he nowe soe dwell, or is his seruante at this p[rese]nte: Neither did he euer heard the Compl[ainan]t or his wyfe euer haue anye conference or Comunicac[i]on w[i]th the sayed, Wil[liam] Gerrard or Iohn Savadge touchinge or concerninge this cause.

9 To the ix Interr[ogatorie] This depon[en]t saiethe That hee doethe not knowe whoe was or were the firste stirres vpp or movers of theise suits and controursyes betweene the Compl[ainan]t and the aboue named def[endan]ts or any of them: Neither doethe hee knowe that the Compl[ainan]t doethe vppon any occasyon comence or prosequute this suite, by the meanes instigac[i]on or procurem[en]t of the sayed Wil[liam] Gerrard or, the Compl[ainan]t wyfe, Neither canne hee affirme the same of his beliefe.

10 To the x Interr[ogatorie] This depon[en]t saiethe That he doethe knowe, that at the Sessions holden at Newgate before the xxij of October iii the sixte yeare of his Ma[jes]tye[s] Raigne when the sayed Raphe Walters in this Interr[ogatorie] mencyned chardged the Compl[ainan]t w[i]th robbing of him the s[ai]d def[endan]ts Wyefe, Bates, Woodbridge, Leake , and diuerse other Poulterers that were sayed to bee of theire Companye, were then p[rese]nte at the same Sessions, and afterwards at the Assises at Chelmefford where agayne the sayed Walters chardged the sayed Compl[ainan]t w[i]th the supposed Robbery aforesayed, the sayed Bates Woodbridge Leake, and others of theire Companye whose names hee knowethe not were then and ther[e] alsoe p[rese]nte: But that anye of the sayed def[endan]ts (excepte the [a]foresayed Raphe Walters) did consulte plott practize conspire or conclude to haue the Compl[ainan]t indicted for the robbing of the sayed Raphe Walters or to take awaye the Compl[ainan]ts lyefe in that respecte or to begg his lands goods or Chattells vnder coulour thereof this depon[en]t knowethe not.

11 To the xj Interr[ogatorie] This depon[en]t saiethe That he doethe not knowe that anye of the aboue named def[endan]ts haue disbursed or lente anye money To the s[ai]d Raphe Walters or for [f54 v.] or for [sic] his vse to vphould or mayntayne the sayed Raphe Walters in the suits comenced agaynste him by the Compl[ainan]t or concerning the preforminge or prosecuting of anye indictm[en]t or other suit by the sayed Raphe Walters against the Compl[ainan]t.

12 &c: To the 12 13 14 15 16 17 18 Interr[ogatories] This depon[en]t is not Examined by direc[ti]on.

p[er] me Robart Hall

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[Depositiones] Capt[ae] septimo die mens[is] Novembr[is] Jac[obi] R[egi]s 7 Iohn Marshall of the Burrough of Soathwarke in the County of Surrey Tallowe Chandler, of thage of 49 yeares or thereabouts being sworne & Examined &c.

1 To the first Interr[ogatorie] This depon[en]t saiethe That hee hathe knowen the Compl[ainan]t aboute 36 or 37 yeares Henrye Bates about a yeare and a haulf Wil[liam] Burte aboute xij yeares, and Isabell his wyef aboute haulf a yeare Edward Leake about a yeare and a haulf Iohn Woodbridge about a yeare and a haulf The rest of the def[endan]ts vnto his rem[em]braunce he knowethe not by theire names yet he think[e]th he doethe knowe some of them by sighte.

2 To the seconde Interr[ogatorie] This depon[en]t saiethe he hathe had some speaches and Conference w[i]th the aboue named def[endan]ts Burts, Leake, and Henrye Bat[e]s at seuerall tymes and in seurall plac[e]s touching and concerning the s[ai]d Compl[ainan]t viz. w[i]th the s[ai]d Bat[e]s at Chelmefford, where the sayed Bat[e]s came vnto this def[endan]t after the tryall had ther[e] against the Compl[ainan]t vppon the supposed robbinge of Raphe Walters, and desyred this depon[en]t that hee would be a meanes to make the sayed Compl[ainan]t and the foresayed Walters freinds touching the sayed supposed robbinge of the sayed Walters, wherew[i]th the s[ai]d Compl[ainan]t at the Assises at Chelmefford had ben chardged by the s[ai]d Walters, this depon[en]t and one Wil[liam] Couden being p[re]sently after the sayed tryall at an Inne in Chelmefford w[i]th the s[ai]d Compl[ainan]t, the ocasyon of w[hi]ch conferene or talk being offered by the s[ai]d Bat[e]s: And after this def[endan]ts retourned from the s[ai]d Assises this depon[en]t meeting by the chaunce w[i]th the def[endan]t Wil[liam] Edward Leake in Soutwark the sayed Leake offered vnto this depon[en]t some taulke touching the s[ai]d Compl[ainan]t then affirminge vnto him that hee the s[ai]d Compl[ainan]t was a very honest man and one that hee had founde euer iust and true in his reckoning and dealinges as euer any man he dealt w[i]th or to this effecte. And likewise this depon[en]t beinge at the howse of the s[ai]d def[endan]t Burte si[the]nce Mid Somer Tearme laste the sayed Burte entered into taulk w[i]th this depon[en]t concerninge the s[ai]d Compl[ainan]t, , then tould this depon[en]t that hee neuer owed the Compl[ainan]t anye euell will in his lyef, but thought well of him as one that never gaue him any other cause before this suit, or to that effecte: Unto w[hi]ch seuerall speaches this depon[en]t in the waye of freindlye peace and love wished that ther[e] were an honest and good ende between them And further vnto this Interr[ogatorie] hee Cannot certaynely depose.

3 4 5 To the 3 4 and 5 Interr[ogatorie] This depon[en]t is not exa[m]i[n]ed by direc[ti]on.

6 To the vj Interr[ogatorie] This depon[en]t saiethe that neither Iohn Savadge in this Interr[ogatorie] mencyned or Wil[liam] Gerrard did serue this depon[en]t w[i]th anye process of subp[ro]ena to testify in this Cause and therfor[e] he cannot declare as the Interr[ogatorie] further inducethe.

[f55 r.] 7 8 To the vij and 8 Interr[ogatories] This depon[en]t is not Exa[m]i[n]ed by direc[ti]on.

9 To the ix Interr[ogatorie] This depon[en]t saieth That hee doethe not knowe whoe was the First mover of stirrer vpp of theise suits and Controu[e]rsyes betweene the Compl[ainan]t and the def[endan]ts or anye of them: Or that the Compl[ainan]t vppon anye occasyon did or doethe by the meanes instigac[i]on or procurem[en]t of Wil[liam] Gerrard in this Interr[ogatorie] mencyned or the Compl[ainan]ts wyef comence or prosecute this suite: Neither doethe hee believe that the s[ai]d Compl[ainan]t doethe or did bye theire or either meanes instigac[i]on or procurem[en]t prosecute the same.

10 To the x Interr[ogatorie] This depon[en]t saiethe That hee doethe knowe that the aboue named def[endan]ts Henrye Bates, Iohn Woodbridge Edward Leake were at the Assises holden at Chelmefford w[i]th the sayed Raphe Walters when hee ther[e] chardged the sayed Compl[ainan]t w[i]th the robbinge of him the sayed Walters, and did goe vppe and downe and taulke w[i]th him, in suche sorte that in this depon[en]ts opynion they did Countenaunce the sayed Walters in that Acc[i]on: And before that tyme when the Compl[ainan]t was by the sayed Walters chardged w[i]th the sayed Robbery at the Sessions holden at Newgate, this depon[en]t sawe the aboue named def[endan]ts Woodbridge, Bat[e]s, w[i]th diuerse others of the def[endan]ts in this Cause, accompanye the sayed Walters, Henrye Bates affirming ther[e] at the Barr that the s[ai]d Walters was an honest fellowe & that he would be bounde in £ xl for his honestye: But that anye of theaboue named def[endan]ts otherwise mett and assembled them selues togeather in publike or priuate in anye place about London or els[e]where before the sayed 23 of October in the sixte yeare of his Ma[jes]ties Raigne to consult plott practize conspire or conclude to haue the Compl[ainan]t indicted for the robbinge of the s[ai]d Raphe Walters or to take away the Compl[ainan]ts lyef in that respecte or to begg his goods lands or Chattells of the R[egi]s Ma[jes]ties vnder Coulor thereof this depon[en]t knowethe not.

12 To the xij Interr[ogatorie] This depon[en]t is not Examined by direc[ti]on.

13 To the xiiij Interr[ogatorie] This depon[en]t saiethe That hee had not anye speach or conference w[i]th the Compl[ainan]t at anye tyme sithence the xxij of Octob[e]r in the sixte yeare of this Ma[jes]ties Raigne touchinge or concerninge Tho[mas] Okeley and Elizabethe his wyefe in this Interr[ogatorie] mencyned Neither did this depon[en]t at anye tyme demaund[e] of the s[ai]d Compl[ainan]t, for What cause or reason hee sued a brother of this depon[en]ts companye as in the Interr[ogatorie] it is demaunded: Neither

doethe hee knowe that the Compl[ainan]t did make answeare or sayed That the sayed Okeley was an honest man & his honest neighbor, or that the sayed Okeley neuer had offended him in all his lyefe, or to anye such or the like effecte: Neither did the plaint tell this depon[en]t at anye tyme That the cause or reason whie hee sued the s[ai]d Okeley in this ho[norable] Courte was by reason or vppon occasyon of some speaches vsed by the wyefe of the s[ai]d Okeley or to anye suche or the like effecte.

14 To the xiiij Interr[ogatorie] This depon[en]t is not Exa[m]i[n]ed by direc[tion].

15 To the xv Interr[ogatorie] This depon[en]t saiethe That hee doethe knowe That the Compl[ainan]t had Iudgem[en]t to recouer Damag[e]s in an Acc[i]on of the Case by him Comenced and prosecuted against the s[ai]d Raphe Walters in the Sheryffs Courte in the Guildhall of London: But that the sayed Bates did thervpon aduise him the sayed Walters to absente himselfe vntill a writt of error might be sued oute for the stayenge of Exequuc[i]on this depon[en]t knowethe not, or that the sayed Walters vppon anye suche aduise did [f55 v.] absent him selfe, or that hee did p[rese]ntlye shawe himselfe in publike after the sayed writt of error was sued out and had receaued allowaunce.

16 17 To the xvj and xvij Interr[ogatorie] This depon[en]t is not Exa[m]i[n]ed by direc[tion].

18 To the xviii Interr[ogatorie] This depon[en]t saiethe That hee doethe not knowe that the Compl[ainan]t did chardge the def[endan]ts Hawks Ioye and Woodbridge w[i]th Felony or that anye suggestions of the Compl[ainan]t herein were found by the Iustices to be false or malitiose, or that the def[endan]ts were thervpon dismissed. But this depon[en]t saiethe that the s[ai]d Walters hauinge directlye chardged the Compl[ainan]t at the Sessions at Newgate w[i]th robbinge of him, the s[ai]d Compl[ainan]t was bound out to answeare the same matter at the Assises holden for the County of Essex where the fact was supposed to be co[m]mitted: But that the s[ai]d matters was [sic] vrged or enforced by anye the Iustices at that Sessions this depon[en]t knowethe not, but thinckethe that the s[ai]d Walters was then bounde to giue in Euidence touching the s[ai]d Robberye at the Assises in Essex, after hee had charged the s[ai]d Compl[ainan]t as afores[ai]d therew[i]th, for hee hearde Mr Recorder of London then saye that hee the s[ai]d Walters should bee soe bound.

Iohn Marshall

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[Depositiones] Capt[ae] nono die mensis Novembr[is] Anno Regni D[omi]ni
n[ost]ri Jacobi R[egi]s 7[^o]

Twigden Masters of the Burroughe of Southwark in the Countey of Surrey
Blacksmith of thage of 33 yeares or thereabouts beinge sworne and Exa[m]
i[n]ed &c.

1 To the First Interr[ogatorie] This depon[en]t saiethe That hee hathe knowen
the Compl[ainan]t for the space of 3 or 4 yeares and the def[endan]t Thom[a]
s Ok[e]ley about the space of seven yeares, the rest of the def[endan]ts vnto
his rem[em]br[auce] hee knowethe not.

2 To the seconde Interr[ogatorie] This def[endan]t hathe not at anye tyme
had any[e] speache or Conference w[i]th anye of the aboue named def[en-
dan]ts, or heard anye, touchinge the Compl[ainan]t, or that any of them
haue conferred togeather coucerninge him, savinge that aboute the begin-
ninge of Maye laste, this def[endan]t meetinge the s[ai]d Thomas Okeley at
Chaundlers hall in London, (they boath[e] beinge free of that Company) The
s[ai]d Thom[a]s Okeley by that occasyon fell into some speach[es] w[i]th this
depon[en]t touching the s[ai]d Thom[a]s Stone, and asked this depon[en]
t when hee sawe him, demandinge of him then what his wealth or state was,
vnto whome this depon[en]t answered that he was a man sufficient and worth
£ vC wher[e]: The sayed Okeley thereon replyed that the sayed Stoane had
Caused them to spende a greate deale of money, and wished or prayed God
that were true that this depon[en]t had tould him, for yf it were he[e] was
gladd to heare it, and hoped that they should be well satisfied when yf they
did had ouerthrowe him, or to that effecte, then affirming alsoe that he[e] had
neuer haue a good purs[e] for there were a greate many[e] purses to one.

3 4 &c: To the 3 4 5 6 7 8 9 10 11 12 13 14 Interr[ogatorie] This depon[en]t is
not Exa[m]i[n]ed by direc[ti]on.

13 To the xiiij Interr[ogatorie] This depon[en]t saiethe That aboute midsomer,
laste this depon[en]t meetinge the Compl[ainan]t in Soutwarke, this depon[en]t
tould him what speeches had passed betweene this depon[en]t and thereabouts
s[ai]d Okeley at Chaundellers Hall: whoe at the relac[i]on answered this de-
pon[en]t, that hee thought that the sayed Okeley was a honest man, and was
drawen in by his wyfe to ioyne w[i]th the def[endan]ts in this Cause againste
him, then alsoe affirming vnto this depon[en]t that [the text is discontinued].

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[f56 r.] [Depositiones] Capt[ae] primo die mens[is] Novembr[is] Anno Regni D[omi]ni n[ost]ri R[egi]s Jacobi 7^o

Richard Palfreman of the Citie of London g[entleman] of the age of 29 [unde-
lirning not mine] yeares or thereabouts beinge sworne and Exa[m]i[n]ed &c.

1 To the first Interr[ogatorie] This depon[en]t saiethe That hee hathe knowen
the Compl[ainan]t Thomas Stone the space of three yeares or thereabouts
But vnto his rem[em]bra[un]ce he doth not know anye of the def[endan]ts
mencioned in the Interr[ogatorie] by name Though it maye bee hee hath seen
some of them.

To the second Interr[ogatorie] this depon[en]t saiethe That hee hath neuer
had vnto his rem[em]bra[un]ce any speache or conference w[i]th any of the
aboue named def[endan]ts or heard anie t[o]uchinge the sayed Compl[ainan]
t And therefore sauinge such speache as as he hearde at the Assises in Essex
where one Walters chardged the Compl[ainan]t to haue Robbed him the s[ai]
d Walters.

3 To the third Interr[ogatorie] This depon[en]t saiethe That he did not [k]
no[w]e anie servant of his or anie other by his means direc[t]ion advise or
p[ro]cur[e]m[en]t draw contrive invent write or engrose in pap[er], or in
p[ar]ch[e]m[en]t anie schedules of Interr[oga]c[i]o[n]s either ministred To
the def[endan]ts or the Compl[ainan]ts witnesses in this cause, or did giue
aine instrucc[i]ons direcc[i]ons or advise vnto the contrivinge writinge or en-
grossinge of anie of them.

4 To the 4 Interr[ogatorie] this depon[en]t saiethe that he doth not followe
sollicite or p[ro]secute this cause one the plantiffes behaulfe or hathe giuen
anye Instruc[i]ons advise or direcc[i]ons to anie of the plaintiff counsell or
Attorney Neither hath hee had or receiued of the plaintiffe or from him anye
thinge for soe Doinge or done anye thinge by waye of Sollicitac[i]on for the
plaintiffe in this cause: Neiter hath this depon[en]t served anie Sup[o]enas on
or anie of the def[endan]ts or Compl[ainan]ts witnesses in this Cause.

5 To the fift Interr[ogatorie] this depon[en]t saiethe that he doth not knowe
that Iohn Savadge of S[ain]t Marie creed church w[i]thin Allgate Chandler
or Will[ia]m Gerrard, of the p[ar]ishe of S[ain]t Iames w[i]thin Clarken Well
gentleman or ather of them doe followe sollicite or prosecute this cause for or
on the pl[ain]t[iff]ts behaulfe.

6 To the vjth Interr[ogatorie] this depon[en]t saieth that neither the sayed Iohn Savadge or Will[ia]m Gerrard did serve this depon[en]t w[i]th anie p[ro]cesse of Sup[o]ena ad testificand[um] in this cause.

7:8 To the vii and viii Interr[ogatories] this depon[en]t is not examined by derec[ci]on.

9 To the ixth Interr[ogatorie] this depon[en]t saieth that he doth not knowe whoe was, or were the first stirrers vpp or movers of this suits and controversyes betweene the Compl[ainan]t & the aboue named def[endan]ts or any of them or whoe was the first stirrer or mover thereof Neither doth hee knowe that vppon anye occasion the plaintiffe did or doethe commence or prosecute this suite by the meanes Instigac[i]on or p[ro]cure[ment] of the said Will[ia]m Gerrard or the plaintiffes wief Neither did the s[ai]d Gerard or the plaintiffes wiefe move or stirr the plaintiffe there vnto to his knowledge.

10 To the x Interr[ogatorie] this deponent saieth that he doth not knowe that the aboue named def[endan]ts or anie of them haue hath mett or assembled themselves togeather in private or publike in anie place, in, or aboute London or elsewhere; before the 23 day of october iij the sixe yeare of his Ma[jes]t[ye]s s raigne that now is, to consulte plott practize conspire or conclude to haue the plaintiffe Indicted for the Robbinge of Raphe Walters one other of the def[endan]ts or to take awaye the plaintiffes lieffe in that respect or to Begge his landes goodes or chattles of the kings Ma[jes]t[ye]s vnder colour thereof, otherwise then that this depon[en]t hearde the Compl[ainan]ts charged w[i]th felony at Chelmefford be the said Walters and was Indicted there touchinge a suposed Robbery comitted one the p[er]son of the s[ai]d Walters, some of the def[endan]ts (but w[hi]ch he knoweth not) being there then p[re]sente as he thinckethe.

[f56 v.] 11: To the xi Interr[ogatorie] this depon[en]t saieth that he dothe not knowe that the aboue named def[endan]ts or anie of them dis[im]bursed or lent anie monie To the said Raphe Walters or for his vse to vp houlde or maintaine the said Rafe Walters in the suits commenced against him by the said plaintiffe or concerning the p[re]feringe or prosecutinge of anie Indictem[en]t or other suite by the said Raph Walters against the plaintiffe.

12:13:14: To the 12:13:14 Interr[ogatories] This depon[en]t is not E[x]a[m]i[n]ed by direc[t]ion 15 To the xv Interr[ogatorie] this depon[en]t saieth he doth not know that the plaintiffe had Iudg[e]ment to recouer damages in an

Acc[i]on of the Case by him commenced or prosecuted against the said Raph Walters in the Sheryffs Court in the Guild Hall of London: Neither did the said Bates vnto this depon[en]ts knowledge therevpon advise him the said Walters to absent himselfe vntill a write of Error might bu [sic] sued out for the stayinge of Execuc[i]on or that the said Walters did absent himselfe occordingelie 16 To the xvi Interr[ogatorie] this depon[en]t saiethe that he hath not vnto his knowledge heard Elizabeth Harlowe in this Interr[ogatorie] mencioned to vse anie speaches touchinge or concerninge the Compl[ainan]t either the Words in this Interr[ogatorie] specified or anie the like in effect Neither doth he know that Iames Harlowe in this Interr[ogatorie] alsoe mencioned did blame or reprove the said Elizabeth for vsinge anie suche or the like words And therfore he Cannot Declare the maner, & Words as the Interr[ogatorie] induceth.

17 To the seaventeth Interr[ogatorie] This depon[en]t is not Exa[m]i[n]ed by direc[ci]o[n].

18 To the xviii Interr[ogatorie] This depon[en]t saiethe That hee doeth not know that the Compl[ainan]t charged the def[endan]ts Hawke Ioye and Walters w[i]th felony or that anie his suggestions in that behaulf were found by the Iastic[e]s [sic] to be malitious & false or that they there vppon dismissed the def[endan]ts and bounde ouer the Compl[ainan]t to appeare at the Assises for the Countie of Essex to answer To the s[ai]d Robery Neither doeth he knowe that the Iustic[e]s did bind or force the def[endan]t Walters to bee bound to giue [sic] in Evidence against the Compl[ainan]t at the s[ai]d Assises in Essex for the said Robery Neither doeth he knowe whether the s[ai]d Walters would haue p[ro]sequuted anie such matter Against the Compl[ainan]t yf he had not ben there vnto urged or enforced [sic] as in this Interr[ogatorie] it is p[re]supposed Ric[hard] Palfreman.

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[f57 r.] [Depostiones] Capt[ae] 13[^o] die Novembr[is] Anno Reg[ni] D[omi]ni n[os]tri Jacobi R[egi]s 7[^o]

Will[ia]m Gerrard of the parishe of S[ain]t Iames Clerkenwell in the County of Midd[lesex] Gentleman aged fiftie yeares or more [illegible] beinge sworne and Exa[m]i[n]ed

1 To the first interrogatorie, this depon[en]t saiethe that he hath knowen the pl[ain]t[iff]. for the space of xiiij^{en} or xv^{en} yeares or thereabouts & some of the

defend[an]ts before this sute begonne, but most of the def[endan]ts he hath knowen but since the same sute begonne, & more to this interr[ogatorie] he cannot well depose. But referreth himselfe to his form[er] exa[m]i[n]ac[i]on made on the pl[ain]t[iff]s behalfe.

2 To the second interr[ogatorie] he this depon[en]t saieth[e] that he hath hadd speaches with dyvers of the defend[an]ts conc[e]rning their p[ro]secuc[i]on of the pl[aintiff] but with howe manie of them he this depon[en]t referreth himselfe for bothe the cause, when or where to his form[er] exa[m]i[n]ac[i]on made on the pl[ain]t[iff]s behalfe, for more he furthe cannot depose to this Interr[ogatorie].

3 To the third interr[ogatorie] this depon[en]t that vnder the favour of this ho[nora]ble Court, he ys not to answer To the same yt being impertynent To the m[agist]r[at]es in pleadinge in this hono[ra]ble Court as hee thinckethe.

4 To the 4th interr[ogatorie] the depon[en]t saieth that he this depon[en]t hath nor receaved either of the Compl[ainan]t or anye other from him, or any on his bahalfe any certen fee, othern then for his charges borne & paines taken: And To the rest of this interrogatorie vnder the like favo[u]r of this ho[nora]ble Court he ys not bound to Answer for the reason aforesayd.

5 To the 5th interr[ogatorie] he this deponent saieth as To the iiijth article & further or more (vnder the like favour), he holdeth himself not bound to Answer for the causes aforesayd.

6 To the sixt [sic] interr[ogatorie] he this depon[en]t saieth that vnder favo[u]r of this ho[nora]ble Court he thinketh it to be impertynent for & therefore not for him this depon[en]t to be exa[mi]ned thereon, and the same alsoe relateth to some other as hee thinckethe & more he cannot say to this Interr[ogatorie].

[f57 v.] 7 8 To the vij and 8 Interr[ogatories] This depon[en]t saieth is not Exa[m]i[n]ed by direc[t]ion.

9 To the 9 interr[ogatorie] this depon[en]t saieth that he for his part, doth not knowe by whose instigac[i]on the pl[aintiff] doth p[ro]secute this sute, but thincketh of himselfe, chiefelie to cleere & free himselfe from the imputac[i]on & practises contayned in his Bill against the def[endan]ts. in this Court, & more he cannot say to this Interr[ogatorie].

10 To the 10th Interr[ogatorie] he this depon[en]t saieth that he hath seene divers of the def[endan]ts & other def[endan]ts both before the sute begonne

& sithence, assembled & meete together, bothe at the Sessions howse by Newgate, at Chelmefford in Essex at thassises & returning from thence, & before a Iustice of peace for London called S[i]r Stephen Soame knight, and at the Assises Walters Bates, Woodbridge, Leake, Hakes, Ioye, Baker & others vppon this depon[en]t now remembreth not and alsoe at the sayed Sessions howse Stapleford Waters Woodbridge Haks Ioye [Leis] & others & now remembreth not but referreth himselfe to his form[er] exa[m]i[n]ac[i]on for the pl[aintiff], for their names as further answeare To the Iustic[e]s aforesayed.

11 To the xj Interr[ogatorie] interr[ogatorie] this depon[en]t. saieth that he cannot c[er]tenly depose w[hi]ch of the def[endan]ts haue defrayed money for Waters, vnlesse yt were Mr. Bates, bycause the sayed Bates in this depon[en]ts hearing dyd affirme & saye he would expend great somes of money to Convic[t]e the pl[aintiff] (yf Walters would stand to his former acusac[i]on of the pl[aintiff]) And more to this interr[ogatorie] this depon[en]t cannot depose certenley.

12 13 & 14 To the 12 13 and 14 Interr[ogatories] This depon[en]t is not Exa[m]i[n]ed by direc[t]ion.

15 To the xvth interr[ogatorie] he this depon[en]t referreth himselfe to this form[er] exa[m]i[n]ac[i]on on the pl[ain]t[iff]s parte made conc[er]ning the pointe & substance of this Article & otherwise he cannot depose To the same.

16 To the xvij Interr[ogatorie] This depon[en]t is not Exa[m]i[n]ed by direc[t]ion.

17 To the xvij interr[ogatorie] this depon[en]t saieth that he doth referr himselfe to his former exa[m]i[n]acion taken conc[er]ning the recognizance or bond menc[i]oned in this Interr[ogatorie] on the pl[ain]t[iff]s behalfe, unto w[hi]ch recognizance this depon[en]t alsoe referreth himself & more cannot saye.

[f58 r.] 18 To the 18th interr[ogatorie] he this depon[en]t saieth That he dyd not heare the anye Iustic[e]s, menc[i]oned or entended by or in this interr[ogatorie] to reprove the pl[aintiff] with any such matter as ys contayned in the interr[ogatorie] But hee well rem[em]breth that at the Sessions howse at Newgate the nowe Lore Bishopp of London, willed Walters to be Well advised how he charged the pl[aintiff] with robbing of him the sayed Walters & accusing the Compl[ainan]t to haue hadd a false beard on his face when he soe robbed him, his Lo[rds]hip saying then w[i]thall that yt was very vn-

like[ly], the pl[aintiff] should weare a false beard bycause he dyd weare his naturall beard contynewally or vsually soe long as he then hadd: And for his further answeare To the rest of this Interr[ogatorie] he this depon[en]t referreth hime [sic] selfe to his former exa[m]i[n]ac[i]on made on the pl[ain]t[iff]s behalfe for this p[u]rpose, And more he cannot depose or ys bond to Answer (Being implyment) as aforesayd as he verylie thinckethe.

Wil[liam] Gerrard

[f60 r.] [discontinued] that hee neuer had borne anye mallice against the sayed Okeley, or to that effect: But that the s[ai]d Compl[ainan]t did then or at anye other tyme sayed vnto this depon[en]t that the s[ai]d Okeley had neuer offended him in all his lyef, of talle him that the Cause whie the sayed Okeley in this ho[norable] Court was by reason or occasyon of any speached vsed by the s[ai]d Okeley his wyefe or to that effecte, this depon[en]t vtterly denyethe.

[signed with a mark]

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[Depositiones] Capt[ae] xiii^o die mensis Novembr[is] Anno Reg[ni]: D[omi]ni N[ost]ri Jac[obi] R[egi]s 7^o

Katheryne Wrentche of the Burroughe of Sourwark in the Countye of Surrey wyefe vnto Thomas Wrentch[e] of thage of 40 yeares or thereabouts being sworne and Exa[m]i[n]ed &c.

1 To the Firtste Interr[ogatorie] This def[endan]t saiethe That shee hathe knowen th[e] Compl[ainan]t Thomas Stoane the Space of xij yeares past and aboue Nicho[las] Kefford about[e] xij yeares, Wil[liam] Burte and Isabell his wyef[e] about[e] 7 or 8 yeares Edward Leake aboute the same space, Iohn Vowell by the space of 5 or 6 yeares Tho[mas] Okeley and Elizab[ethe] his wyefe aboute 5 or 6 yeares Thom[a]s Moys and Susann his wyefe about[e] 7 or viij yeares Edward Hunter by the space of 7 or 8 yeares Thother defs[endan]ts by name vnt[o] her rem[em]braunce she knoweth not yet shee thincketh[e] that by sight shee knoweth some of them.

2 To the seconde Interr[ogatorie] This depon[en]t saiethe That shee had not at anye tyme anye speache or Conference w[i]th any of the aboue named def[endan]ts or hearde anye touching or Concerning the s[ai]d Compl[ainan]t Saving suche conference or speache as she hathe had w[i]th the sayed def[endan]

t Thom[a]s Okeley w[hi]ch was in as followeth or To the same effect[e], That as to saye That this depon[en]t hauinge occasyon to goe to Bashopps gate in London mett then by Chaunce w[i]th the sayed Thom[a]s Okeley whoe vppon that occasyon asked this depon[en]t whie shee did not came vnto his howse as, hee was wont to doe and bring her howsband w[i]th her: whereunto shee this depon[en]t answered that shee had but one M[aiste]r whome shee brought amongst them, naminge vnto him the Compl[ainan]t Mr Stone, and they sought to hange him and therefore shee had litle ioye or cause to come amongst them: The sayed Thomas Okeley then answered vnto her, that he wished that the s[ai]d Compl[ainan]t would bee better aduised and agreed the matter w[i]th them for they beinge manye yf they should spende but £ xl a peece they should make poore Stone of him: The certayntye of the tyme when this taulk was had betweene shee nowe rem[em]breth not yet shee well calleth to mynde that the same was had in the streete neare Bishopps gate vppon her sayed meeting w[i]th th[e] fores[ai]d Thom[a]s Okeley by Chaunce.

3 &c To the 3 4 and 5 Interr[ogatories] This depon[en]t is not Exa[m]i[n]ed by direc[ti]on.

6 To the 6 Interr[ogatorie] This depon[en]t saiethe That shee doeth[e] not knowe that Wil[lia]m Gerrard or Iohn Savadge in this Interr[ogatorie] mencioned did serue her w[i]th process to testifie in this cause.

[f60 v.] 7 8 To the 7 and 8 Interr[ogatories] this depon[en]t is not Exa[m]i[n]ed by direc[ti]on.

9 To the ix Interr[ogatorie] This depon[en]t saiethe That shee doethe not knowe what were the first movers o or stirrers vpp of those suts or controu[e]rsyes betweene the Compl[ainan]ts and the aboue named def[endan]ts or any of them: Or that the Compl[ainan]t doeth[e] vppon any ocasyon, by the meanes instigac[i]on or procurem[en]t of the s[ai]d Wil[lia]m Gerrard or the Compl[ainan]ts wyfe Comence or prosecute this sute, but shee verylie belieueth that hee doeth the same vppon iust cause giuen him and of himselfe w[i]thout their or either of their instigac[i]on prosecute the same, & soe did comence the same.

10 To the x Interr[ogatorie] This depon[en]t saiethe That shee doethe not knowe that the aboue named def[endan]ts or any of them haue mett and assembled themselues together in pablique [sic] or priuate in any plac[e] in or about London or els[e] where before the xxij of October in the 6 yeare of his

Ma[jes]tyes Raigne to consulte plott practize conspire or conclude to haue the Compl[ainan]t indicted for the robbing of Raphe Walters in this Interr[ogatorie] mencyned, or to take away[e] the Compl[ainan]ts lyef[e] in that respect or to begge his land goods or Chattells of the R[egi]s Ma[jes]tye[s] vnder coulor thereof And therefore shee cannot declare as the Interr[ogatorie] further induceth[e].

11 To the xj Interr[ogatorie] This depon[en]t saiethe That shee doeth[e] not knowe that the aboue named def[endan]ts or any of them haue dis[im]bursed or lent any[e] money to th[e] s[ai]d Raphe Walters or for his vse, to vphold or mayntayne the s[ai]d Raphe Walters in the suits comenced against him by the Compl[ainan]t, or concerning the proferring[e] or prosecutinge of any indictm[en]t or other suite by the sayed Raphe Walters against the Compl[ainan]t.

12 &c. To the 12 13 14 15 16 17 and 18 Interr[ogatorie] This depon[en]t is not Exa[m]i[n]ed by direc[ti]on.

[signed with a mark]

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[f61 r.] [Depositiones] Capt[ae] xv^{to} die mens[is] Novembr[is] Anno Regni D[omi]ni n[os]tri Jac[obi] R[egi]s &c.

Elizabeth Bromley of London spinster of thage of xxvj yeares or thereabouts beinge sworne and Exa[m]i[n]ed &c.

To the First Interr[ogatorie] This depon[en]t saiethe That shee hathe knowen the Compl[ainan]t about fyve yeares Henrye Bates def[endan]t about[e] 4 yeares, Nicho[las] Kefford aboute xij yeares Wil[liam] Burte aboute xij or xiiij yeares, and Isabell his wyefe aboute the same tyme Edward Leake & Richard Keyes aboute xj or xij yeares Iohn Vowell aboute the space of v yeares Iohn Woodbridge about vij or 8 yeares Iohn Raym[on]t about 5 or 6 yeares Thomas Okeley about iiij or 5 yeares, and his wyefe about 12 yeares, Ieames Harlowe about 2 or 3 yeares, and Elizab[ethe] his wyefe about vij or 8 yeares, Tho[mas] Moyse about xij yeares and Susan his wyefe aboute 4 or 5 yeares Edward Hunter during all the tyme of her memorye and Allen Baker aboute vij or viij yeares.

2 To the seconde Interr[ogatorie] This depon[en]t saiethe[e] That shee hath heard manye speachess by diu[e]rse of the def[endan]ts vttered concern-

ing[e] the Compl[ainan]t, the w[hi]ch shee hathe formerlye beinge Examined as a witness one the Compl[ainan]ts behaulf in her deposic[i]ons taken in this ho[norable] Courte, trulye declared her knowledge: And therfore humblye praieth the fauor of this ho[norable] Courte that shee maye referr herself vnto her former deposic[i]ons.

3 &c. To the 3 4 5 Interr[ogatories] This depon[en]t is not Exa[m]i[n]ed by direc[ti]on.

6 To the 6 Interr[ogatorie] This depon[en]t saiethe That neither the sayed Iohn Savadge or Wil[liam] Gerrard in this Interr[ogatorie] mencyned did serue her w[i]th any process of subp[ro]ena to testify in this Cause.

7 To the vijth Interr[ogatorie] This depon[en]t saiethe That shee is sister vnto the Compl[ainan]ts wyefe and dwellethe in howse w[i]th them as a Seruant and soe did at the tyme of her sayed Examinac[i]on taken in the Compl[ainan]ts behaulfe.

8 To the xviii Interr[ogatorie] This depon[en]t is not Exa[m]i[n]ed by direc[ti]on.

9 To the ix Interr[ogatorie] This depon[en]t saiethe That shee doethe not knowe whoe was the firste mover or stirrer of the suits betweene the Compl[ainan]t and the sayed def[endan]ts or anye of them, but she verylie thinke the that the sayed Ieames Harlowe or Elizabethe his wyefe were boathe or one of them the first causers thereof for this depon[en]t is suer that shee never hearde faulte of speache of the supposed felonye to haue ben Comitted by the Compl[ainan]t on the p[er]son of Raphe Walters before that one Avys Barrake, came vnto this depon[en]t and in greate seacrecye tould her that she he hearde at the howse of the sayed Harlowe his the sayed Harlowe his wyefe saye thus or To the lyk[e] effecte vnto her howsband viz. O man it is noe meruayle though Mr Stone keepe his wiefe and children soe brave as he doethe, for he stands by the way and tak[e]s purses: And afterwards that the Compl[ainan]t had stirred somewhat in that matter wherew[i]th he was brought into discreditt, the sayed Avis Barrake came agayne vnto this depon[en]t and tould her that she had abidden a verye greveouse lyef, w[i]th the s[ai]d Harlowe and his wyef, the s[ai]d def[endan]ts Okeley and his wyefe, and diuerse others, of the def[endan]ts and ben threatened to be whipped by them for reporting[e] vnto this depon[en]t the s[ai]d speeches that shee heard at the s[ai]d Okeley his howse And this depon[en]t saiethe That she doethe

not knowe that the Compl[ainan]t did or doethe vppon any occasyon by the meanes or procurem[en]t either of Wil[liam] Gerrard in this Interr[ogatorie] mencyned or the Compl[ainan]ts wyfe comence or prosequute this suite, but as this depo[nen]t thinckethe verylie in her Conscience the Compl[ainan]t did and doethe of his owne selfe in respecte of the greate abuse offered vnto him by the def[endan]ts Comence & prosequut[e] the same.

10 To the x Interr[ogatorie] This depon[en]t saiethe That shee hathe alreadye being Examined as a witness on the Compl[ainan]ts behauld in this ho[norable] Court deposed what shee cann saye vnto the seuerall questions of this Interr[ogatorie] And therefore humbly praieth that vnder the fauor of this ho[norable] Courte shee maye referr herselfe vnto her sayed former deposic[i]ons.

11 To the xj Interr[ogatorie] This depon[en]t saiethe That shee doethe not knowe that anye of the def[endan]ts haue disbursed or lente anye money To the s[ai]d Raphe Walters or for his vse to vphold or mayntayne the s[ai]d Walters in the suits Comenced against him the the Compl[ainan]t or for the p[er]forming of or proseq[ui]ting of any [f61 v.] of anye Indictm[en]t or other suite by the s[ai]d Raphe Walters against him.

12 To the xij Interr[ogatorie] This depon[en]t is not Exa[m]i[n]ed by direc[tion].

13 To the xiiij Interr[ogatorie] This depon[en]t saiethe That this depon[en]t hauinge hearde the wyfe of the s[ai]d Thom[as] Okeley in this Interr[ogatorie] mencyned, sayed vnto the wyfe of the sayed Harlowe and to diuerse others of the def[endan]ts openlye at their shoppes theise or the like words in effecte. viz. Gods lyef[e] is there not enough of Stones knaverye oute alreadye, before a pecke of Meale would haue stopped my mounthe, but nowe a whole bushell shall not, and the occasyon of her then speache was because the Compl[ainan]t had newlye serued her w[i]th process to appeare in this ho[norable] Courte shee then carryenge the process in her hand, the w[i]ch speeches and other of like effecte vsed by the wyfe of the s[ai]d Okeley this depon[en]t hath in conference had w[i]th the Compl[ainan]t reported vnto him.

14 To the xiiij Interr[ogatorie] This depon[en]t is not Exa[m]i[n]ed by direc[tion].

15 To the 15 Interr[ogatorie] This depon[en]t saiethe That shee Cannot depose.

16 &c To the 16 17 and 18 Interr[ogatorie] This depon[en]t is not Exa[m]i[n]ed by direc[ti]on.

[signed with a mark]

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* *

[f69 r.]Anno Regni D[omi]ni n[os]tri Jac[obi] R[eg]is 7[^o]

INTE[R]ROGATORIES to be ministred to wittnesses to be Examined on the p[ar]te and behalfe of Henrye Bates Nicholas Kefford, William Burte, Isabell his wief Edward Leake, Richard Keyes, Iohn Vowell Iohn Woodbridge, Iohn Rayment, Thomas Okley and Edward Hunter & Allen Baker & xvijth of the def[endan]ts in this honorable Courte at the Suite of Thomas Stone Plaintiffe

Inprimis doe yow knowe the p[ar]tie plaintiffe and the aboue named defenda[un]ts and w[hi]ch and howe many of them doe you knowe and how longe haue yow soe knowe them.

:2: Item: hadd yow ever any speache or conference w[i]th anye of the aboue named defend[an]ts or haue you heard any And howe manye of the defend[an]ts haue had any speache or conference together att any tyme Concerning the Plaintiffe, what was the same speach or Conference, when wheare and vppon what occasion was anye suche speache or Conference had, And howe came yow to be present att ytt.

:3: Item: did yow or anye of your Servants or Apprentices or any other by your meanes advise dyrecc[i]on or procurement, And whoe by name Drawe Contryve invent write or ingrosse in paper or in parchment the seu[er]all schedules of Interrogatories now shewed vnto you ministred as well To the defendants as To the Plaintiffes Wittnesses in this cause, dyd you giue any Instrucc[i]ons dyrecc[i]ons or advise therevnto. And of whose wrytinge and the seu[er]all Schedules of Interrogatories now shewed to you And what And what [sic] weare you or anie other and whoe by name payde for the Inventing contryvinge wrytinge or ingrossinge of the said Interrogatoryes on any of them.

:4: Item doe you followe Sollicite or prosecute this cause on the Plaintiffes behaulf have you gyven anye Instrucc[i]ons advise or dyrecc[i]ons to any the Plaintiffes counsell or Attorney what haue you had or receaued of the Plaintiffes or from him for your so doeinge What haue you donne by way of Sollicitac[i]on for the Plaintiffe in this cause; haue you serued anye Subp[o]enas

on any of the defend[an]ts or any of the Plaintiffes Wittnesses soe or on the Plaintiffes behalfe in this cause,... howe manye such Subp[o]enas haue you serued and vppon whome by name, And what money recompeunce or other Reward haue you receyved for you paynes taken att everye severall tyme in that behalffe.

:5: Item doe you knowe that Iohn Savadge of Stephen Marye Creed church w[i]thin Allgate Chandlor or Will[ia]m Gerrard of the Parrishe of S[ain]t Iames w[i]thin Clerken Well gentl[e]man or either of them and w[hi]ch of them by name doe followe sollicite or prosecute this cause for or on the pl[ain]t[iff]s behalfe in what kinde haue you knowen them or either of them to vse anye kinde of sollicitacon in this cause sett downe the manner thereof and the reason of your knoweledge to everie parte of this Interrogatorie.

:6: Item did the said Iohn Savadge or William Gerrard or either of them and w[hi]ch of them by name serue you w[i]th anie processe of Subp[o]ena ad testificand[um] in this cause, what speaches gesture or behauior did they vse to you at the tyme of the servinge of any suche processes of Sub[oe]na.

:7: Item are you mother syster or Servaunt To the plaintiffe or his wief and doe you Cohabite or dwell w[i]th the plaintiffe in his howse, and dyd you soe dwell w[i]th him, att the tyme of your Examinac[i]on as a wytnes, on the pl[ain]t[iff]s behalfe.

:8: Item att the tyme of yo[u]r examinac[i]on as a wittnes on the pl[ain]t[iff]s behalfe weare yow servaunt To the plaintife and dwelte in his howse And doe you soe contynue what speache conference or commuicac[i]on dyd you ever heare that the Plaintiffe or his wief haue had w[i]th William Gerrard or Iohn Savadge or eyther of them conc[er]ning this cause expresse the same speech or conference To the best of yo[u]r remembraun[ce].

:9: Item doe you knowe whoe was or were the First Stirrers vpp or movers of this suite & controv[er]sies betweene the pl[ain]t[iff] & the aboue named def[endan]ts or any of them, what was the First Stirrer or mover thereof, and vppon what occasyon dyd and dothe the plaintiffe to yo[u]r knowledge or beliefe comence or p[ro]secute this suite by the meanes instigac[i]on or p[ro]curement of the said William Gerrard or the plainteffes wief what is the reason of your know[le]d[ge] or beleefe therein, And why doth or did the said Gerrards or the plaintiffes wiefe moved or stirre the plaintiffe therevnto.

:10: Item doe you knowe that the aboue named def[endan]ts or anie of them

haue mett and assembled themselves together in private or publicke in any place in or aboute London or els[e]where before the xxijth day of octob[er] in the sixty yeare of his Ma[jes]t[ie]s reigne that nowe is to consulte plotte practize conspire or Conclude to haue the plaintiffe Indicted for the robbing of Raffe Walters one of the defend[an]ts or to take away the plaintiffes lief[e] in that respecte or to bagge his landes goodes or Chattells of the kings Ma[jes]tie[s] vnder color thereof what hath bene the effecte substaunce or drifte of, and weare you present att anye such Consultac[i]on plott practize Conspira-cye or conclusion And what is the reason of your knowledge heerein.

:11: Item doe you knowe that the aboue named defendants or any of them and howe manye of them by name haue disbursed of lente any money To the said Raffe Walters or for his vse to vphould ot maintaine the said Raphe Walters in the suits Comenced against him by the plaintiffe or concerninge the p[er]forminge or prosecutinge of anye Indictment or other suite by the said Raphe Walters against the Plaintiffe what and to whome was the said money soe disbursed.

:12: Item doe you know that Faulke Bromeley late Servant To the Plaintiffe and one [blank] who was servaunte to Edward Leake one of the defendants (one or aboute the thirteenth day of October in the Syxth yeare of his Maiesties raigne did fight or stryve together in the night tyme in the kinge highwaye att Hoddesdone in the Countye of Hertford vpon what or whose occasyon meanes or procurement did they soe fight or stryve together, was yt by the occasion meanes or procurement of Iohn Woodbridge one of the aboue named defend[an]t[s] dyd the said Iohn Woodbridge then Attempte or doe any other matter then doe his best endeavor to devide or seperratt[e] the saide Bromeley and [blank] from fightinge the one w[i]th the other and to preserve his Ma[jes]t[ie]s peace did the said defendant Woodbridge then or att any other tyme and tymes place or places and when and where in any sorte assault beate wounde strike or sett vppon the said Bromley whilest he was s[e]rvant To the plaintiffe, or did the said Woodbridge never offer or doe any violence To the said Bromeley But what he did or offered in indeavoringe to devide or sepa[ra]te the said Bromeley and: [blank] when they were fightinge or stryv-ing together vppon the highe waye as aforesaid declare howe the said Bromeley and [blank] Fell out one with another and whoe was the First mover or stirrer upp of the quarrell between them together w[i]th the vtmost of yo[u]r knowledge to everies parte of this Interrogatorie and was the said Bromeley on or about the saide thirteenth daye of october servaunte To the plantiffe.

:13: Item what conference [or] speach hadd you w[i]th the plaintiffe att any tyme and when sythence or before the three and twentieth Daye of October in the vth yeare of the kinge ma[ies]t[ie]s raigne that nowe is touchinge or conc[er]ninge Thomas Okley and Elizabeth his wief one of the aboue named defenda[n]ts did yow att any such tyme demaunde of the plaintiffe for what cause or reason he sued or troubled a brother of the Companie (meaninge the said Okley[.]) what answeare did the said Stone make therevnto, did he then saye that the said Okley was an honest man and his honest neighbour And that the saide Okley never had offended him the said plaintiff in all his lyffe did the sayd Plaintiffe then make anye Answeare to anye suche or the like effecte and what was the said Answeare in the effecte thereof, And did the Plaintiffe then tell yow that the cause or reason whye hee sued the saide Okley in this honorable Courte was by reason of vppon occasyon of some speaches vsed by the wief of the saide Okley or did the Planintiffe tell yow anye matter tendinge to any such or the like effecte sett downe the whole speach or Conference at lardge that passed betweene yow concerninge the Contents of this Interrogatorye.

:14: Item is the sayde Ralphe Walters whowe an apprentyce to Henrye Bates one of the defendants and hath the said Henrye Bates putt ever him the sayde Ralffe Walters to serve out his apprentishipp w[i]th the said Iohn Woodbridge howe longe hath he the said Walters served the sayd Woodbridge as an apprentyce by the puttinge over of the said Henrye Bates And what moved the said Bates soe to doe.

:15: Item doe yow knowe that the Plaintiffe had iug[e]ment to recover Damages in and Ac[t]ion of the case by him comenced and prosecuted against the saide Rallffe Walters in the Sheriffes Cowrte in the Guild Hall of London did the said Bates therevppon advise him the sayde Walters to absente himselfe vntill A wrytt of Error might be sued out for the stayeing of the Execuc[i]on did the saide Walters [absent] himself accordingle was not that the onely occasyon of his soule absente howe longe did hee absent himselfe, And did he not Walke openly and showe himselfe in publique presently after the saide Wrytt of Error was sued out and had receaued allowance in the said Sheriffes Cowrte and howe knowe you the same to be trewe.

:16: Item what wordes or speaches haue you heard Elizabeth Harlowe one of the aboue named deffendaunts to vse towchinge or concerninge the plaintiffes; Did shee vse or vtter anye other words or speaches of the Plaintiffe

Then wordes or speaches tendinge to this of the like effecte (viz) That if yt [was] trewe that was reported abroad the Plaintiffe was a gentleman theiffe [document torn] or the like all [document torn].

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[f70 r.] [Depo[sitio]nes Testis Capt[ae] xix^{mo} dies Mensis Octobr[is] Anno Regni D[omi]ni n[ost]ri Jacobi Dei gra[tia] Anglie Francie Et Hib[er]nie Regis &c septimo et Scotie 13[^o] Sup[er] Interr[ogator]ijs ex p[ar]te Ral[ph]e Walters [illegible] def[endentis] ad sect[am] Thome Stone

Iohn Meade of Vgley in the County of Essex husband of the age of 49 yeares of thereabouts being sworne and exa[m]i[n]ed &c.

To the First Interr[ogatorie] This depon[en]t saiethe That vnto his rem[em]br[au]nce hee doethe not knowe the p[ar]tye plaint[iff] but the def[endan]t Raphe Walters he hath knowen by the space a yeare and a haulf or thereabouts, and doethe thinck[e] in his consyence that the sayed Raphe Walters is an honest[e] har[m]less younge man, and free from raysinge anye scandall or false reports or slaunder of anye whatsoeu[er] And further saiethe that duringe all the tyme of his knowedge of the sayed Walters hath ben for anye thinge this depon[en]t knowethe or hath hearde To the Contra rye of sober and honeste condic[i]on, and accordinglye demeaned him selfe, and by his trade a poulter.

To the seconde Interr[ogatorie] This depon[en]t saiethe That hee doethe not knowe, but doethe verylye beleive and hath creadiblye hearde, That the def[endan]t Raphe Walters on the 24 of Aprill laste past was xij monethes beinge sundaye was robbed, betweene twoe & three of the Clocke in the afternoone of the same daye, in a wood called Ritlyng wood not farr from the towne of Ritlinge and the s[ai]d towne of Vgelye whether the sayed Raphe Walters the daye and tyme aboue s[ai]d came vnto this depon[en]t and diu[er]se others of his neighbors presentlye after the facte (as he sayed was comitted) w[hi]ch his heade broken & bloodye & his bande bloodye, & tould them that hee hath then been robbed in the s[ai]d Ritlinge Wood, by three p[er]sons, twoe of the same p[er]sons hauing a blacke and a baye horses or gerings, then affirming vnto then that hee thoughte the sayed p[er]sons were still in the fores[ai]d wood, therw[i]th desyring this def[endan]ts and his s[ai]d neighbors to goe downe thither w[i]th him to seeke after them; The w[hi]ch they did accordinglye but founde them not yet theire, they founde the sayed

deff[endan]ts horses, theire wantyes being Cutt theire pay pannyers ryfled, & pulled from the horses, and the strawe scattered aboute the wood And this depon[en]t saieth that hee hath hearde some of his neighbors say & reporte, that the same daye they sawe suche men as were described by theire horses of the sayed Walters, neare aboute the place afores[ai]d where hee reported the sayed Robberye to haue ben doen, and verylie believeth that the report of the sayed Walters was iuste and true. Vppon w[hi]ch robberye the s[ai]d Walters did rayse hue and crye p[rese]ntlye after he was robbed, the w[hi]ch was accordinglye p[ur]sued as this depon[en]t thincketh: And afterward the matter was exa[m]i[n]ed by M^r Gefferye Nitinghall one of the Iustic[e]s of his Ma[jes]tyes peace w[i]thin the s[ai]d Countye of Essex And more vnto this Interr[ogatorie] hee cannot certaynlye depose, sauing that after the s[ai]d Robbery Iohn Avery in this Interr[ogatorie] mencyned came vnto this depon[en]t w[i]th one Brett in his companye & asked this depon[en]t what direc[ti]on the fores[ai]d Raphe Walters gaue vnto him at the first for making the hue & crye & this depon[en]t tould him, that he desyred him to make forth hue & crye for 3 men one riding on a black horse & an other on a baye & that one of them had noe boots: the w[hi]ch when Averye had heard he asked yf on[e] of them did not ryde on a Graye horse: And afterwards the s[ai]d Avery came againe vnto this depon[en]t w[i]th an other p[er]son, (as this depon[en]t ha the hearde a Constable of Harlowe Hundred named Gladwyne) & then asked this depon[en]t what horses the three p[ar]tyes roade on that [illegible] the poulter & then vsed some p[er]swasiue speaches to this depon[en]t to moue him to belieue & saye that one of them was a gray horse but this depon[en]t neither acknowledge the suit or had any such informac[i]on gyven him by the poulter.

To the thirde Interr[ogatorie] this depon[en]t saiethe That at the tyme afores[ai]d when the sayed Walters came vnto this depon[en]t and his neighbors as he hath before vnto the nexte precedente Interr[ogatorie] declared, the sayed Walters then sayed and affirmed that the sayed p[er]sons had taken from him xxx^o in money a Cloake a hatt a paire of shoes & p[ar]te of a woemans sute of apparell, but what the valewe thereof was hee doeth not knowe or rem[em]ber that the s[ai]d deff[endan]t tould them of the valewe thereof: But he well rembreth that hee tould them hee had ben robbed at his coming as afores[ai]d, & had ben bounden hande and foote: And verylye thincketh and believeth in his Conscience, that the sayed Walters was then robbed, and that w[hi]ch hee affirmed was true, and the reasons that hee soe belieuethe

were because [f70 v.] because [sic] hee is p[er]swaded thoroughly of the honestye of the sayed Walters & his true declaration, and alsoe because by the manner of his comming vnto them bloodye, w[i]th his head brocken, when it was newly doen, as thoughe he had escaped the hands of Theues, and p[rese]ntlye after they found his horses stripped their wanty[es] Cutt and the panniers ryfled, as he hath before declared.

4 To the fourth Interr[ogatorie] This depon[en]t saieth[e] That he Cannot further depose vnto this Interr[ogatorie] then hee hathe before deposed sauuinge that after this depon[en]t came vnto Rifling wood and found[e] the defend[an]ts horses ryfeled w[i]th their wantyes or surcingles cutte he alsoe p[er]ceaued that that the stuffinge of his sadle[s] was plucked oute and scattered abroad as though[e] it had ben doen for searche of money.

5 To the vth Interr[ogatorie] This depon[en]t saieth[e] That the Examinac[i]ons or writinge nowe shewed vnto him at the tyme of this his Exa[m]i[n]acons importing[e] the circumstaunc[e]s concerning[e] the robbinge of the sayed Raphe Walters in substaunce true in all & ev[er]ye p[ar]te, for soe much thereof as concerneth this deponts p[ar]ticuler Exa[m]i[n]ac[i]on And further vnto this Interr[ogatorie] hee Cannot depose.

6 To the 6 Interr[ogatorie] This depon[en]t is not Exa[m]i[n]ed by direc[t]ion.

Iohn meade

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Danye Payne of Vgley in the Countye of Essex husbade of thage of Lx yeares or thereabouts being sworne & Exa[m]i[n]ed &c.

1 To the Firste Interr[ogatorie] This depon[en]t saieth[e] That hee doethe not vnto his rem[em]braunce knowe the plaint[iff]: But the def[endan]t Raphe Walters he hathe knowen by the space of a yeare and a haulf or thereabouts, and doethe verylie thinck in his Conscience that the s[ai]d Raphe Walters is an honeste younge man, and free frome raysing anye scandall or false reporte To the slaunder of anye whatsoeu[er]: whoe hath sithence his knowledge of him seemed vnto this depon[en]t to be of sober and honest Condi[i]on, and hathe not otherwise vnt[o] this depon[en]t knowledge demeane himselfe duringe the space hee hathe knowen him, beinge a Poulter by his trade.

2 To the seconde Interr[ogatorie] This depon[en]t saiethe That hee doethe

verylie beleue & hathe creadiblye hearde that the sayed Raphe Walters defendant was on a sundaye being the 24 of Aprill last past was twelve monethe robbed at a place called Riflinge was not farre from the Towne of Vgley whoe peresently (after the facte comitted as the s[ai]d Walters then affirmed) came vnto Vgley, afores[ai]d vnto this depon[en]t an diuerse of his neighbors and caused hue & crye to be made, the w[hi]ch was p[ur]sued accordinglye At w[hi]ch tyme of his comminge vnto this depon[en]t & his neighbours being on the sayed Sunday in the afternoon about Evening prayer, the sayed Walters reported vnto them that there were thereof the p[er]sons that had robbed him & one of them had a sorrell hors[e] or gelding & thother abaye, and one of them had a vysard or maske on his face: The w[hi]ch reporte of the sayed def[endan]t Walters this depon[en]t verilye beleueth to bee true After w[hi]ch the matter was exa[m]i[n]ed before Mr Ieff[e]ray Nightingall Iustic[e] of peace & the s[ai]d Iohn Avery in this Interr[ogatorie] mencyned came vnto this depon[en]t and asked him whether he thought the s[ai]d poulter were robbed, vnto howe he answered that he for his p[ar]te thought he was & therew[i]th tould him howe hee hadd founde his horses stripped, his panniers ryfled & his wantyes or surcingles cutt in manner as this depon[en]t & his neighbours founde the same at their coming To the woode to make searche after the offenders, And further vnto this Interr[ogatorie] he Cannot certaynlye depose.

[f71 r.] 3 To the thirde Interr[ogatorie] This depon[en]t saiethe That the sayed def[endan]t Raphe Walters when hee came vnto this defen[dan]t & his s[ai]d neighbors as hee hathe before declared the sayed sundaye in the afternoone vnto Vgley Church and desired this depon[en]t and his sayed neighbors to ayde him and to rayse hue and crye after three p[er]sons that had then newly robbed him in Ritlinge Wood, affirming then vnto them that they had robbed him of some money (but howe much hee doethe not rember) of his Cloak, his hatt, and certayne other apparrell: The w[hi]ch reporte of the s[ai]d Walters this depon[en]t verilye beleueth to bee true, because he then came vnto them as a man that had newlye escaped theues hands, w[i]th his heade bloody & brooken, & his band all blooded, and afterwards because this depon[en]t cominge To the s[ai]d wood where he affirmed hee was robbed, founde his horses stripte their wantyes or sarcingles cutt, & his panniers rifled w[i]th the strawe scattered aboute the place.

4 To the fourthe Interr[ogatorie] this depon[en]t saiethe That hee dooth verilye thincke and beleive in his Conscience that the s[ai]d Walters came

w[i]th all speed possiblye that hee could after the sayed robberye comitted vnto this depon[en]t & his sayed neighbors of Vgley where he did declare that he was soe robbed as he hathe before deposed, affirming then that they had bound him hande & foote, And well knoweth at that his cominge, his heade was brooken & bloodye, & his hand alsoe all be bloodyed And this depon[en]t further saiethe That ymediately after the sayed Walters coming vnto Vgley as he hath before declared, and that he had made declarac[i]on of the robbery comitted & required ayed, this depon[en]t & diu[e]rse of his neighbors wente To the sayed place or wood where he affirmed himselfe to haue ben robbed, and there founde the saddles of his horses taken of, and the panniers & the straves thereof pulled oute, & scattered aboute the wood as though they had ben purposelye ryfled for money, and his wantyes or sarcingles cutt in three or foure peeces, euery of them And further vnto this Interr[ogatorie] then he hathe before deposed he cannot depose.

5 To the Fyfte Interr[ogatorie] This depon[en]t saiethe That the Examinac[i]ons in this Interr[ogatorie] mencyned now shewed vnto him at the tyme of this his Examinac[i]on are in everye p[ar]te true soe farre forthe as they doe agree w[i]th theise his deposic[i]ons vnto the sayed Interr[ogatorie] in the substance thereof And (more vnto this Interr[ogatorie] hee Cannot certaynely depose.

6 To the vj Interr[ogatorie] this depon[en]t is not Exa[m]i[n]ed by direc[t]ion [signed with a mark]

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Iohn Wyley of Vgley in the County of Essex husband of thage of 57 yeares or thereabouts beinge sworne & exa[m]i[n]ed &c.

1 To the Firste Interr[ogatorie] This depon[en]t saiethe That he doethe knowe the plaint[iff] and hathe knowen him aboute haulf a yeaere, & the s[ai]d def[en]dan]t Raphe Walters by the space of one yeaere and a haulf or thereabouts, and verylie thincketh in his Conscience that the s[ai]d Walters is an honest younge man, & one that will not (as hee belieueth) rayse anye scandall or false reporte To the slaunder of anye p[er]son what soeu[er], who hathe since this depon[en]t knowe him seemed to bee of sober and honest condic[i]on, and acording lye during the space of his knoweledge of them demeaned himselfe, for anye thing that this depon[en]t knoweth To the contrarye, beinge a Poulter by his trade.

2 To the seconde Interr[ogatorie] This depon[en]t saiethe That he hathe creadiblye hearde that the s[ai]d def[endan]t Raphe Walters was on or aboute the 24 daye of Aprill laste past was xij monethes beinge on a sundaye, robbed in or neare Ritlinge Wood in the sayed Countye of Essex, in the afternoone of the same daye about Evening prayer tyme, and that hee did there vppon cause hue and crye to be p[rese]ntly made, after three p[er]sons whom hee affirmed then to have robbed him as this depon[en]t heard by the reporte of some of his neighbors And this depon[en]t further saiethe that hee doeth knowe that after the hue & crye made this matter was [f71 v.] was examyned by one W^r Jefferaye Nitingale one of the Iustic[e]s of his Ma[jes]ties Peace for the Countye of Essex, and that Iohn Averye in this Interr[ogatorie] mencyned hathe reported vnto him this depon[en]t that he sawe on the same daye wherein the Poulters the s[ai]d def[endan]t Walters affirmed himselfe to bee robbed [by] three men riding on the highe waye thone of them on a whitche graye horse or gelding and one on a blacke and hee that roade on the whitishe graye roade w[i]thout boots, in his hose and dublett of graieshe fustion somewhat worne, and the thirde p[er]son as the s[ai]d Averye alsoe tould this depon[en]t roade on a baye horse as he thinckethe And further vnto this Interr[ogatorie] he Cannot depose.

3 To the 3 Interr[ogatorie] This depon[en]t saiethe he Cannot depose.

4 To the 4 Interr[ogatorie] This depon[en]t saiethe That hee hathe hearde that the def[endan]t Walters did p[rese]ntlye after hee was robbed come vnto this def[endan]ts neighbors the inh[ab]itaunts of the towne of Vgley about Evening prater tyme the s[ai]d 24 of Aprill and there declared the manner howe hee was robbed and that he had ben bounde hande and foote w[i]th his head broken and bloodye: And therevppon alsoe as this depon[en]t hearde by some of his neighbors they founde when they came to make search in Ritling wood after the Offenders, the sayed Walters the Poulters horses in the same wood w[i]th their saddles pulled of, & the pannyes and the strawe therein taken out an scattered abroad, and alsoe his wantyes of surcingles cutt in peec[e]s And further vnto this Interr[ogatorie] hee Cannot depose, saving that this depon[en]t the sayed afternoon afores[ai]d of the s[ai]d 24 of Aprill, at his goinge vnto, or cominge frome Evening prayer at the p[ar]ishe Church of Vgley he founde a hatt bande, of blacke stuff but whether it weare of [illegible] or not he doethe not nowe rember, the w[hi]ch as this depon[en]t afterwards heard, the sayed Walters challenged to bee his, and had it at a place where this depon[en]t leaste it for him, agayne.

5 6 To the 5 & 6 Interr[ogatories] This depon[en]t is not Exa[m]i[n]ed by direc[ti]on.

[signed with a mark]

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Richard Wrighte of Newporte in the Countye of Essex husband of thage of 36 yeares or thereabouts being sworne and Exa[m]i[n]ed &c.

1 To the Firste Interr[ogatorie] this depon[en]t saiethe That vnto his rem[em]braunce hee doethe not knowe the Compl[ainan]t, but the def[endan]t Walters hee hathe knowen about the space of twoe yeares, and doethe verylie believe in his Conscience That hee is an honeste harmelesse young man, and free from raying any scandall or false reports To the the slaunder of any whatsouer: whome alsoe this depon[en]t takethe to be of verye sober and honest Condi[i]on, and he knoweth that he hathe verye ciuilly demeaned himself manye tymes vsinge to come & goe from London, to Newporte ponde afores[ai]d during the tyme of this Dep[o]n[en]ts knoweledge of him, and hee neuer knewe or heard him to bee of any loose disposic[i]on or evell behaiour, the s[ai]d Walters beinge a poultier by his trade.

2 To the seconde Interr[ogatorie] This depon[en]t saiethe That hee hathe readiblye heard and doethe verylie beleive that on the 24 of Aprill last past was xij monethes on a Sundaye the sayed def[endan]t Raphe Walters was robbed at a place called Rittinge wood, and that hee did p[rese]ntlye after come vnto Vgley and afterwards vnto Newport ponde and made or caused to bee made hue and crye after three p[er]sons that were sayed to haue comitted the same, w[hi]ch hue and crye as this depon[en]t alsoe hearde was p[ur]sued accodinglye And this depon[en]t further saiethe that he hearde that the s[ai]d Walters vppon his cominge [f72 r.] cominge to rayse hue and crye at Vgley and at Newport did describe the sayed p[er]sons by their horses and apparrell that had soe robbed him, but in what manner hee doethe not further rem[em]ber then that it was repor ted that one of ther sayed p[er]sons roade w[i]thoute boots and more vnto this Interr[ogatorie] he Cannot deposee saying that hee knoweth the matter was after the hue and crye made, exa[m]i[n]ed by Mr Nitingale one of his Ma[jes]ties Iustic[e]s in the Countye of Essex afores[ai]d, and that hee doethe verylie believe that the sayed Walters was robbed according as hee hearde hee had made declarac[i]ons therof.

3 To the thirde Interr[ogatorie] This depon[en]t saiethe That he was not pres-

ent when the sayed Walters came to rayse the sayed hue and crye either at Vgley or Newport afores[ai]d But as this depon[en]t heard of his neighbors hee then gaue forth that he was robbed of xxxs or thereabouts in money his hatt and certayne apparrell or a packe of Mr Weeks, the w[hi]ch hee wrylie beleiueth to bee truw[e] because hee taketh the s[ai]d Walters to be an honest & well Condic[i]oned fellowe and one that will not falsly acuse any or report vntruethe, and alsoe in respecte that he creadibly heard by diu[er]se of his neighbors that he came vnto them w[i]th his heade broken & blodye, his thumbes and hands swollen as thoughe they had ben bounden by such p[er]sons & his horses stirred, their saddles pulled of and panniers ryfled & the strawe thereof scattered vppon and downe Ritling wood And more he Cannot depose vnto this Interr[ogatorie].

4 To the 4th Interr[ogatorie] This depon[en]t saiethe That he hathe creadibly hearde & doethe verylie beleieue in his Conscience that the def[endan]t Raphe Walters presentlye soe soone as hee could after hee was robbed did come both unTo the inh[ab]itans of Vggley and Newporte aforesayed and then & there declared unTo them the manner thereof & that he had ben bounden hand & foote: Some of w[hi]ch his neighbors as hee hathe alsoe creadibly hearde did p[er]ceau and fynde his thumbes and hands swollen w[i]th ouerhard bynding, his heade brooken and bloodye, his legges pricked w[i]th thornes, his horses striped their saddles taken of and his panniers ryfled, and the strawe scattered abroad as ther[e] hadd ben some that had searched them for money or other things, & the wantyes or surcingles cutt in peec[es]. And this depon[en]t futher saiethe That the nexte thursdaye after the sayed robberye is reported to haue ben comitted, this depon[en]t hauinge ben a workeman neare the place where the s[ai]d Walters was sayed to be robbed in Ritlinge Wood, and there the weeke before wrought in cutting of wood and making of Faggotts, came that thursdaye vnto his worke agayne, and then sawe the sayed Walters and the other Poulterers & other p[er]sons alsoe come then to make veiue of the place where the sayed Walters affirmed himself then to haue ben robbed, whome this depon[en]t seing came vnto them, and fyndinge them seeking somethinge that had ben loste asked what they sought the sayed Walters answered that in that place the p[er]sons that had robbed him p[ar]ted their money and did lett fall some p[ar]te thereof and they then soughte to see whether they could fynde anye of it or not, but not findinge anye, they beinge ready to goe their waye, this depon[en]t stooped downe and in the same place founde a sixe pence, the sayed place then seeming vnto

this depon[en]t then to be trampled and beaten as thoughe one had ben there layed, and searched. And more vnto this Interr[ogatorie] hee Cannot certaynlye depose.

[5 6] To the v and vjth Interr[ogatorie] This depon[en]t is not Exa[m]i[n]ed by direc[ti]on.

[signed with a mark]

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Iohn Peacock of Vgley in the Countye of Essex weauer of thage of xxv yeares or thereabouts beinge sworne & Exa[m]i[n]ed &c.

1 To the Firste Interr[ogatorie] This depon[en]t saieth that hee doeth not knowe [f72 v.] knowethe [sic] the Compl[ainan]t vnto his rembrauce: But the def[endan]t Raphe Walters hee hathe knowen by the space of a yeare and a haulf or thereabouts whome he verylie belivethe in his Conscience to be an honest harmelesse younge man and free from raysinge of any scandall or false reports To the slaunder of anye whatsoever, and a poulter by his trade of sober and honest condic[i]on, for anye thing that this depon[en]t hathe at anye tyme sithence his knowedge of him p[er]ceaued, or otherwise heard reporte of him.

2 To the seconde Interr[ogatorie] This depon[en]t saieth That hee veryly doeth believe & hathe creadiblye hearde that on the 24 of Aprill last past was xij monethes the sayed def[endan]t Walters was robbed at Ritlinge Wood neare Vgley, in the afternoon of the same daye, whoe hauinge as this depon[en]t hearde that afternoone rayed hue & crye thereon at Vggley came afterwards vnto Quendon where this depon[en]t then was and there did alsoe cause hue and crye to be rayed after the p[er]sons that had soe robbed him, whoe where as hee then affirmed three, thone of them hauing a sorrall horse or geldinge w[i]th a redd saddle, an other a browne baye and the third a Blacke and one of the p[ar]ties beinge then apparrelled in a ierkyn and Bases of Clothe greene or grenishe, an other of them in a payer of round hose But their coulour or other apparell hee doethe not rem[em]ber or of the third p[er]sons At w[hi]ch tyme the s[ai]d Walters then reported vnto this depon[en]t whoe there tooke direc[ti]ons of him to make the hue and crye that one of the s[ai]d p[er]sons was a pale faced man w[i]th a redd beard & that one of them had a vysor or false bearde vppon his face: The w[hi]ch report of the sayed Walters that hee was soe robbed this depon[en]t belieueth to bee true. And knowethe that after

the sayed hue and crye [was] made the matter was exa[m]i[n]ed by Mr Ieffrey Nitingale one of the Iustic[e]s of his Ma[jes]ties peace of those p[ar]t[e]s, before whom this depon[en]t was called and exa[m]i[n]ed touching the premisses. And farther this depon[en]t saiethe That after the s[ai]d hue & crye was made, there came vnto him one Iohn Aveye accompanied w[i]th one Brett of Harlowe & fell into Comunicac[i]on w[i]th this depon[en]t touching the s[ai]d robbery, demanding yf there were anye hue and crye made and what horses & men they were whome this depon[en]t tould according as hee hath before declared & hee hadd receauerd instruc[ci]ons frome the sayed Walters therein After w[hi]ch tyme the sayed Aveye came againe vnto this depon[en]t, accompanied as he then sayed w[i]th one Gladwyne a heig[he] Constable, and the s[ai]d Gladwyne then demanded of this depon[en]t what horses those men had that robbed the s[ai]d poulter, to whome this depon[en]t answered that one of them had as the sayed Wal., ters gaue him instruc[ci]ons a sorrell an other of them a browne baye & the third a blacke, whereof this depon[en]t then gaue them at their request a noit in writing vnder his hande. And more vnto this Interr[ogatorie] he cannot certaynlye depose.

3 To the 3 Interr[ogatorie] This depon[en]t saiethe That when the sayed def[endan]t Walters came vnto Quendon to rayse the hue and crye there as he hath before declared he came w[i]thout a Cloak hauing his heade bloody as though it had ben laterly broken, then affirming that hee had ben robbed as this depon[en]t hathe vnto the nexte p[re]cedente Interr[ogatorie] declared & that hee had ben bounde hande and foote by the Offenders, and robbed of xxxs in money a Cloak and a hatt and certayne other stuffe but of what quantity or kynde the same was hee the s[ai]d poulter then affirmed, he knowe not And this depon[en]t saiethe that he doeth verylie believe that the s[ai]d Walters was then robbed, and that w[hi]ch hee affirmed touching the same was true and hee the rather soe beleiueth the same because hee taketh the s[ai]d Walters to be an honest man and that hee would not lye in that case and alsoe because hee hath heard some of his neighbors of Vglye report that p[rese]ntlye after the s[ai]d Walters coming vnto them to rayse the hue & crye they went downe to Ritlinge Wood where the robbery was comitted as the s[ai]d poulter then enformed them, that they found his horses there w[i]th their saddles and panniers pulled of ryfled & the strawe pulled out & scattered aboute the wood & his wantyes or surcingles cutt in peeces & his depon[en]t himself sawe his heade bloodye And further he Cannot depose.

[f73 r.] 4 To the 4th Interr[ogatorie] This depon[en]t saiethe That hee hathe

Creadibly heard and doethe verylie beleive in his Conscience that the def[en-
dan]t Raphe Walters p[rese]ntlye after the tyme hee was robbed, or soe soone
as possibly hee could did come To the inh[ab]itants of Vgley and then & there
declared that hee was robbed & bounden hand and foote, and that thervppon
the sayed inh[ab]itants did some of them goe vnto the sayed Ritling wood
vnto the place where the s[ai]d Walters enformed them that he was robbed
whoe there founde the place as he hathe creadiblye heard wallowed or tram-
pled as though one had laye bounde there, his horses w[i]th their saddles &
pannyers pulled of and ryfled & the strawe pulled out & scattered abroad and
the wantyes or surcingles of them cutt in peecs And this depon[en]t further
saiethe that hee hathe heardy it creadiblye reported by one Richard Writt of
Newporte Ponde afords[ai]d that hee founde a vje [pence] in the place where
it was reported that the sayed offenders p[ar]ted their money after they had
robbed the s[ai]d poultier And more he cannot certaynlye depose.

5 To the vth Interr[ogatorie] This depon[en]t saiethe That the Exa[m]i[n]ac[i]
ons nowe shewed vnto him at the tyme of this his Exa[m]i[n]ac[i]on taken
before Mr Nitingale afores[ai]d concerning the circumstaunces of the robbing
of the s[ai]d Walters are true in substaunce in all and eu[er]ye p[ar]te thereof,
soe farre as the same concernethe this depon[en]ts p[ar]ticuler Exa[m]i[n]
ac[i]on: and verylie thincketh that the name of Ieffraye Nitingale thereunto
subscribed is of the prop[er] handwriting of the sayed Mr Nitingale one of the
Iustic[e]s of his Ma[jes]ties peace where this depon[en]t was after the hue &
crye made exa[m]i[n]ed.

6 To the 6 Interr[ogatorie] this depon[en]t is not exa[m]i[n]ed by direc[t]ion.

Iohn Peacock

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Richard Robberts of Vggley in the Countye of Essex laborer of thage of S[ix]
tye yeares or thereabouts being sworne and Exa[m]i[n]ed

To the Firste Interr[ogatorie] This depon[en]t saiethe That vnto his rem[em]
braunce hee doethe not knowe the Compl[ainan]t: But hathe knowen the
def[endan]t Raphe Walters by the space of one yere and a haulfe, and doeth
verylie beleive in his Conscience that the sayed Walters is an honest harmlese
young man, and that hee is free frome raysing anye scandall or false reports
To the slaunder or of anye p[er]son: And saiethe that the s[ai]d def[endan]
t Walters is by his trade a Poultier and of sober and ciuill condic[i]on and de-

meanor for any thing that either this depon[en]t knoweth of hath hearde To the contrarye.

2 To the seconde Interr[ogatorie] this depon[en]t saiethe That hee doethe verylie beleive & hath creadiblye heard that the s[ai]d def[endan]t Raphe Walters was on the 24 daye of Aprill laste past was xij monethes beinge a sun-daye robbed at a place Called Ritlinge Wood not farr frome Vgley afores[ai]d On w[hi]ch daye aboute Evening prayer p[rese]ntlye or soe soone as possibly he could after the facte comitted the sayed Walters did come vpp vnto Vgley Church and there did acquaynted this depon[en]t & diu[er]se of his neighbors that he was soe robbed, & therew[i]th desyred their ayde & that there mighte hue and crye be rayed againste the p[er]sons, the w[hi]ch was doen accordinglye and p[ur]sued: At w[hi]ch tyme the s[ai]d Walters reported vnto this depon[en]t and his neighbors that there were twoe or thre of the p[er]sons that robbed him (the certayntye of whether hee doeth not rem[em]ber) And further vnto this Interr[ogatorie] hee cannot depose sauing that he doethe verylie beleive that the report of the s[ai]d Walters was iust and trew that hee he [sic] vttered then conc[e]rninge the s[ai]d robberye.

[3] To the thirde Interr[ogatorie] This depon[en]t saiethe That p[rese]ntlye vppon the coming of the [f73 v.] of the s[ai]d Walters vnto Vgley and enfourming them of the robbery & causing hue & crye to bee made after the p[er]sons, this depon[en]t w[i]th other of his neighbors wente downe vnto Ritlinge Wood the place where the s[ai]d Walters then affirmed himself to be robbed, And at his cominge vnto Vgley to make a declarac[i]on of the robberye and to haue hue & cry rayed hee the s[ai]d Walters came upp much sweatinge and dis-tempered as thoughe hee had ben hardlye vsed, hauing his heade broken & bloodye and alsoe his hande aboute his necke, then deliv[er]ing vnto them that he had ben robbed in the s[ai]d Ritling wood of xxxs in money, his Cloak his hatt and certayne other things, & that he was bounden by the p[er]sons hand & foot The w[hi]ch declarac[i]on made by the sayed Walters this depon[en]t doethe verylie believe to bee true, because hee bothe taketh him to be honest & that he reported nothing but the trueth & hee came uppe vnto them in that manner as thoughe hee had newlye escaped theues hands, and alsoe that this depon[en]t and his neighbors comeinge To the s[ai]d wood vppon his notice gyven of the robbery, and founde his horses there w[i]th their saddles pulled of and their pannyers the strawe pulled out and scattered abroad as yf some had ben ryfling them and searching for money and other thinges, w[i]th the wantyes or surcingles of the s[ai]d horses cutt in peec[es].

4 To the fourthe Interr[ogatorie] this depon[en]t saiethe That the sayed def[endan]t Raphe Walters did come vpp vnto Vgley as he hathe before declared the sayed afternoon of the 24 of Aprill last was xij monethes about the tyme of Evening prayer & ther[e] declared vnto this depon[en]t & others his neighbors that he was robbed in mann[er] before declared, the w[hi]ch hee did as this deponent thinckethe p[rese]ntlye after or soe soone as possibly he could come vpp to notify the same, rayse hue & crye & requyer ayed: At w[hi]ch his cominge this depon[en]t well p[er]ceaued that his heade was broken & bloody and his, bande alsoe aboute his necke all to bee bloodyed And afterwarde this depon[en]t and diu[er]se of his neighbors goeing To the sayed Ritling wood to make searche after the sayed p[er]sons accoring to his direc[ti]on, they founde the s[ai]d Walters horses, w[i]th their saddles pulled of their backs & their panniers taken downe and ryfled, the strawe thereof taken oute & scattered abroad as thoughe there had been search made for money and other things taken awaye, and the grasse padled and trampled downe w[i]th mens feete, and one place as yf ther[e] had one latly ben layed there bounde, and the wantyes or surcingles & girts Cutt in peec[e]s And more vnto this Interr[ogatorie] hee Cannot certaynlye depose.

5 6 To the v and vj Interr[ogatorie] This depon[en]t is not Exa[m]i[n]ed by direc[ti]on.

Rycher Robberdts [sic]

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George Nutt of Vgley in the Countye of Essex Sheppheard of thage of xxxvj yeares or thereabouts beinge sworne & exa[m]i[n]ed &c.

1 To the Firste Interr[ogatorie] This depon[en]t saiethe That hee doethe not vnto his rem[em]braunce knowe the Compl[ainan]t But the def[endan]t Raphe Walters hee hathe knowen by the space of one yere & a haulf nowe paste or therabouts and doethe verilye beleive in his Conscience that the sayed Walters is an honest and harmeless younge man, and such a one as will not rayse anye slaunder or false resports on anye man, And is by his trade a poulter, and of sober and honeste condic[i]on & soe hath behaued & demean[ed] himself during all the tyme of this depon[en]ts knoweledge of him, for anye thinge that this depon[en]t knowethe or hathe heard To the contrarie.

[f74 r.] 2 To the seconde Interr[ogatorie] This depon[en]t saiethe That hee

doethe knowe that the def[endan]t Raphe Walters the xxiiijth day of Aprill laste paste was xij monethes aboute twoe or thre of the Clock in the afternoon of the same daye beinge sundaye cam[e] vppe vnto Vgley Church & there enfourmed this depon[en]t and diuerse others of his neighbors ther[e] that hee was then newly robbed in a wood not farre frome thence called Ritling wood, and desyred ayed of them and that hue & crye might be rayسد against the Offenders, w[hi]ch p[rese]ntlye was doen by them and p[ur]sued accordinglye: At w[hi]ch tyme the sayed Walters reported vnto them that there were three of the p[er]sons that then hadd robbed him, declaring vnto them alsoe the coulors of their horses & by what manner of apparrell they mighte bee discrey[b]ed the w[hi]ch this depon[en]t doethe not nowe rem[em]ber And this depon[en]t further sayethe that hee doethe verylie beleive that the reporte then made by the sayed Walters of and concerninge the sayed robberye was true and that the matter was afterwards Exa[m]i[n]ed before Mr Nitingale one of the Iustic[e]s of his Ma[jes]ties peace of those p[ar]t[is] And further vnto this Interr[ogatorie] hee Cannot depose.

3 To the thirde Interr[ogatorie] This depon[en]t saiethe That hee doethe knowe that the sayed Raphe Walters at his cominge vpp to Vgley the sayed 24 of Aprill to make knowne the sayed robbery and to rayse hue & crye there, came thither verye muche distempered vnbraced & much sweating his heade broken & bloodye and his band aboute his neck all to be bloodyed and his thumbes blacke and swelled, as thoughe hee had ben newelye bounde, and escaped theuees hands, then affirming that hee had ben bounde hande and foote and robbed of xxxs in money, a hatt, and certayne things of Mr Weeks of Newporte Ponde: And verylie beleiueth that the sayed Walters was then robbed accordinglye as hee declared, and that w[hi]ch hee affirmed tounchinge the same was true, because hee came in that manner sweatinge, distempered wounded bloodye, & his thumbes backe & swollen and afterwards this depon[en]t and diu[er]se of his neighbors goeing p[resen]tly To the sayed Ritlinge Wood where he reported he was robbed, & founde his horses vnsaddled w[i]th their panniers taken of, ryfled & the strawe therein scattered all abroad the wantyes or surcingles cutt in peec[e]s and cast diuerse wayes, as though it had ben of theuees doinge and besids hee holdethe the sayed Walters for soe honest a man that hee will would not declare suche an vntruethe.

4 To the 4th Interr[ogatorie] This depon[en]t saiethe That hee verylie beleiueth in his Conscience that the sayed Raphe Walters either p[resen]tlye, or soe soone after as possiblye hee could, after the s[ai]d robberye comitted did

come upp vnto Vgley and ther[e] declare that hee was soe robbed abused & bounden hand and foote: At w[hi]ch tyme of his cominge vpp this depon[en]t did well p[er]ceave the swellinge and blacknesse of his thumbes as thoughe they had ben even p[rese]ntlye before ben ouerhardlye bounde, his head broken & bloodye & his bande aboute his necke bloodye: And p[rese]ntlye after his report [miscount] of the robberye & raysinge hue and crye this depon[en]t and diuerse of his Neig[h]bors of Vgley wente To the sayed Ritlinge Wood (where hee affirmed vnto them that the s[ai]d robberye was comitted) and there they founde the s[ai]d def[endan]t Walters horses vnsaddled their panniers taken of, and the strawe thereof taken out and scattered aboute the wood, as thoughe they had ben ramsacked and searched for money and other things his wantyes or surcingles cutt in three or foure peec[e]s a peece, and cast there and there, and the grounde beaten and trampled there aboute w[i]th diu[er]se mens feete and one place where it seemed one had lay bounde & ben ryfled and one of the saddles or pedds almost broken & the stuffing pulled out as thoughe ther had ben search made for money And this depon[en]t further saiethe, that hee hathe creadiblye hearde that w[i]thin fewe dayes after the s[ai]d robberye was reported to haue ben doen, one Wrighte in the place where it was [f74 v.] It was [sic] sayed the theeues deuided the[i]re money did fynde vje [pence]: And hee alsoe that daye that the robberye was comitted as the s[ai]d Walters reported, he hearde one Wyley afterwards founde a hatt band the , whiche was afterwards challenged by the s[ai]d def[endan]t Walters And more vnto this Interr[ogatorie] hee cannot certainly depose.

5 6 To the v and vj Interr[ogatories] This depon[en]t is not Exa[m]i[n]ed by direc[ti]on.

[signed with a mark]

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[Depositiones] Capt[ae] xxj die mensis Octobr[is] Ano D[omi]ni n[os]tri R[e]gi[s] Jacobi 7^o

Iohn Huggens of Newport Ponde in the Countye of Essex Inholder of thage of 58 yeares or thereabouts beinge sworne and Exa[m]i[n]ed &c.

1 To the Firste Interr[ogatorie] This depon[en]t saiethe That vnto his rem[em]braunce he neuer sawe or knewe the Compl[ainan]t vntill the day of this his Exa[m]i[n]ac[i]on: But the def[endan]t Raphe Walters hee hathe knowen by the space of 3 or foure yeares And doethe verylie beleive in his Conscience

that the sayed Raphe Walters is an honest harmless young man & one that is free from raysing of scandall or false reports To the slaunder of anye whatsoever And saieth That hee is a poulter by his trade and hathe manye tymes come vnto this depon[en]ts howse sithence hee firste knowe him, and ther[e] behaued himself euer very soberlye, w[i]thout anye manner disorder, and neither knowethe or hath hearde that at anye tyme dee hathe otherwise demeaned himselfe.

2 To the seconde Interr[ogatorie] This depon[en]t saiethe That hee doeth verylie beleive that on Sundaye being the 24 of Aprill last past was xiiij monethes aboute one or twoe of the Clocke in the afternoone the s[ai]d Raphe Walters was robbed in a place called Ritling wood, not farre frome Vgley and that hee did p[rese]ntlye after the facte comitted rayse hue and crye thervpon the w[hi]ch was as he hathe creadiblye hearde was p[ur]sued accordinglye: And will knoweth that the same afternoone of the 24 of Aprill the sayed Walters caem vnto this def[endan]ts howse at Newporte and p[rese]ntlye after his cominge declared that he was then robbed and there alsoe caused hue and crye to bee made after the Offenders, affirming vnto this depon[en]t and diu[er]s[e] of his neighbors that there were three of them that robbed him, at w[hi]ch tyme thee sayed Walters declared what horses the s[ai]d p[er]sons had and howe they mighte bee descry[b]ed, but this depon[en]t nowe doeth not rem[em]ber thone and thother: The w[hi]ch reporte of the sayed Walters concerninge the same he verylie beleiueth was true & iust And After the hue and crye [was] made hee knoweth the matter was examyned by one Mr Nitingale a Iustice of his Ma[jes]ties Peace w[i]thin the s[ai]d Countye And further vnto this Interr[ogatorie] he Cannot certaynlie depose.

3 To the thirde Interr[ogatorie] Thid depon[en]t saiethe That hee doeth knowe that the sayed Walters when he came to Newporte Ponde to make declarac[i]on of the sayed robberye and to rayse the sayed hue and crye on the sayed 24 of Aprill came thither w[i]th a wounde in his heade, his heade, and his hande bloodye, w[i]thout a Cloake his thumbes being then swollen and blacke as though they had ben verye hardly bound[e] and the printe of the stringe wherew[i]th hee had ben bounde[n] not [illegible] oute of them: And then hee declared that he had ben bounden hande & foote, and robbed of 30 or 33 4s in moneye, of his hatt and Cloake and some other things of one Mr Weeks: The w[hi]ch report of the sayed Walters he verlye beleiveth to be true bothe in regarde of the good opynion hee hath of his honestye and that he would not report such an vntrueth[e], & alsoe because hee came in that manner w[i]

thout a Cloak[e] w[hi]ch he was not wonte, his heade wounded & bloddye and his band alsoe bloodyed, and his thumbes [f75 r.] thumbes [sic] blacke and swelled in that ma[n]ner he hath before declared the girtes and surcingles or wantyes of his horses cutt in peec[e]s.

4 To the 4th Interr[ogatorie] This depon[en]t saiethe That hee doethe verylie beleive and hathe creadiblye hearde that the sayed Raphe Walters soe soone as possiblye hee could after the sayed robberye comitted did come vnto the towne of Vgley vnto the inh[abi]taunts there, & then declared that hee was robbed & bounde hand and foote, and that diu[e]rse of the s[ai]d In[habi]taunts uppon his declarac[i]on of the robberye and raysing of hue and crye against the offenders there, did goe vnto the s[ai]d Ritling wood, and there founde the s[ai]d Walters horses w[i]th their saddles taken of and panniers w[i]th the strawe and some stuffing therouf taken oute & scattered abroad as though they had ben ryfled & searched by theues for money or other thinges, the girts surcingles or wantyes of them cutt into diu[er]se peec[e]s euery of them and throwen about here and there in the same wood: hee alsoe hath creadeblye hearde that one Richard Wrighte w[i]thin fewe dayes after the tyme of the robberye searching in some of the sayed strawe that laye scattered founde a vje [pence] And this depon[en]t further saiethe that hee well knoweth that the same afternoone when the sayed Walters came to Newport Ponde afores[ai]d to notifie the matter there and to rayse hue & crye his heade was broken & bloddye and his band alsoe, his thumbes black and swelled as though they had ben verye hardlye bounde in soe muche that the printe of the stringe appeared in them, and his girts wantye or surcingles cut in diu[er]se peec[e]s And more vnto this Interr[ogatorie] hee Cannot certainly depose.

5 To the Fyfte Interr[ogatorie] This depon[en]t saiethe That the writing nowe shewed vnto him at this his Exa[m]i[n]acon concerning the s[ai]d robbinge of the s[ai]d def[endan]t Raphe Walters and his hue and crye made thereon at Newport Ponde is true in all and eu[er]y p[ar]te of the substaunce thereof.

6 To the vjth Interr[ogatorie] This depon[en]t is not Exa[m]i[n]ed by direc[t]ion.

Iohn Huggins

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Roberte Savell of Vgley in the Countye of Essex Malteman thage of xltie yeares of thereabouts being sworne & exa[m]i[n]ed &c.

1 To the Firste Interr[ogatorie] This depon[en]t saiethe That vnto his rem[em]braunce hee doethe not knowe the Compl[ainan]t: But the def[endan]t Walters hee hath knowen aboute the space of twoe yeares whome hee beleiveth in his Conscience to bee an honest harmless young man, and that he is free from raysing of anye scandall or false reports to slaunder any p[er]son: The w[hi]ch Raphe Walters is by his trade a Poulter, and hath during the tyme this depon[en]t knewe him shewed himself to be of sober and good condic[i]on and soe hathe euer demeaned himselfe for anye thinge that this depon[en]t hathe euer knowen or hearde To the contrarye.

2 To the seconde Interr[ogatorie] This depon[en]t saiethe That hee doethe knowe that the sayed Raphe Walters on a sunday in the afternone of the 24 of Aprill laste past was xij monethes, aboute Eveninge prayer tyme came vnto the Church of Vgley and reported vnto this depon[en]t & diu[er]se of his neighbors there that hee was then newlye robbed, desyryng ayed [sic] of them and that hue and crye might bee p[rese]ntlye made after the Offenders, w[hi]ch was doen accordingle & orderlye p[ur]sued: At w[hi]ch tyme hee affirmed that they were three, p[er]sons of them twoe of them riding w[i]th boots and one of them w[i]thout boots, and then alsoe declared vnto them the coulor of their horse and their apparell, but this depon[en]t doeth not at this p[rese]ntlye [f75 v.] robbed in Ritlinge Wood, and required hue and crye to be raysed, & then to asist him in the followinge and fyndinge of the Offenders, the s[ai]d Walters then affirming vnto them that hee had ben bound hand and foote and yll vsed by the maelfactors; At w[hi]ch the tyme of his s[ai]d cominge, th[e] is sayed neighbors likewise reported that the sayed Walters came upp w[i]th his heade broken and bloodye: And that they vppon the knowledge thereof and hue and cry raysed wente downe vnto the sayed Ritlinge Wood and there found the horses of the s[ai]d Walters w[i]th their sadlers pulled out and the strawe of his pannyers taken out and scattered about the sayed wood and the wantyes cut in sundrye peec[es] and cast about in the same wood in seu[er]all plac[es]. And more vnto this Interr[ogatorie] hee Cannot certaynlye depose, saving that he verylie beleueth that the report of his sayed neighbors is true.

5 6 To the 5 and 6 Interr[ogatorie] This def[endan]t is not Exa[m]i[n]ed by direc[t]ion.

7 To the 7 Interr[ogatorie] This depon[en]t saiethe That one the sunday afore-sayed p[rese]ntlye after dynner, (yet before this depon[en]t had heard anye manner of speache touching or concerning the sayed Robberye) Thomas

Cowsett Wil[liam] Knight and Wil[liam] [illegible] & this depon[en]t goeing towards Queyndon in the heighe Waye by Ritlinge Wood syde, they sawe w[i]thin the same wood a horse w[i]th a redd saddle standing tyed or rayned towards the Wood that was growing then in the sayed Ritlinge Wood what the coulour of the same horse was hee remembreth not, but well calleth to mynde that after they hade seene the same, one of their s[ai]d Companye (but w[hi]ch of them hee Cannot declare the certaynetye) mervaylinge to see a horse there at that tyme, and demaunding whose horse the same might bee the sayed Wil[liam] Lowender answered that it might be some mans horse that was come To the sayed Wood, to make vewe of, & to buy some wood there that then was there felled to that purpose: w[hi]ch speach had or the like thereunto in effecte, they wente forwards on their way w[i]thout anye other speache had concerninge the s[ai]d horse: And cominge the same daye towards nighte back vnto Vggley this depon[en]t then was tould that the sayed Walters had come upp vnto the neighbors there and made knowen at Vggley the sayed Robbery and caused hue & cry to be raysed and that they had thereon ben at the wood and founde his horse there as before in his deposic[i]on vnto the fourth Interr[ogatorie] hee hathe declared And more vnto this Interr[ogatorie] hee Cannot Certaynlye depose.

[signed with a mark]

[f82 r.] [discontinued] Item dyd you or eyther of you heard before such tyme as you heard of any Robbery Comitted neare the Towne of Vggley in a Woodbridge called Riklingwood beinge on the xxiiith Daye of Aprill last paste was A Twelve monethes the same beinge on a Sunday in the afternoone of the same daye w[hi]ch was in the vjth yeare of his Ma[jes]t[ie]s raigne at w[hi]ch tyme as you weare goeing or walkinge abroad about the said wood see A horse w[i]th a Redd Sadle on this backe tyed or raygined vpp against the wood or tree and whether dyd yow or either of you vppon such yo[u]r sight of the saie horse and Saddle in the sayed wood calk and vtter some speeches one to another And what was the effecte of such yo[u]r speeches therevpon vttered after yo[u]r first sight of the said horse, what Coloure was the horse as you now remenbereth Declare the cause & motion of your speeches & howe you came by chaunce to see the said horse & sadle together w[i]th all the Circumstances thereof at lardge And how many p[er]sons were in yo[u]r Company at the same tyme And alsoe Declare that after the tyme of yo[u]r saide speeches and talke one of another and sight of the said horse and sadle dyd you heare that ther was a robbery Comitted in the same wood vpon the defend[an]t Ralfe

Walters, & that he made hue & crye therevppon, p[rese]ntlye after suche tyme the said Robberye [was] Comitted.

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[f83 r.][De]pos[itione]s test[is] ex p[ar]te Ralph[e] Walters def[endentis] [captae] 7^o die Novembris

Peter Wyke of Newport in the County of Essex gent[leman] aged fitie ye[a]res or thereabouts sworne and exa[m]i[n]ed

To the first interrogatory saieth he doth not know the Compl[ainan]ts Thomas Stone but he doth knowe the said def[endan]t Ralphe Walters and hath knowen him by the space of threee yeares or more as he thincketh, And towching his honestie Condi[i]on & demean[e]r menc[i]oned in this interr[ogatorie] this depon[en]t saieth that sithence the tyme he knowe him the said def[endan]t Walters first, he hath ever found him to be of Few words and them [sic] he vsed more modest not tending To the hurt or scandle of any man neither doth this depon[en]t knowe nor did eu[er] herd that he was any way geven to riott or vsed any vncivill behauior but followed his M[aiste]rs buisines & did for other men w[hi]ch put charg[e] of things vnto his hands honestly & iustly And the rather this depon[en]t is this induced to depose because him self & his wieff and his sonnes in lawe Iohn Howland a student in the Middle Temple & Samuell Howland a grocer in London w[hi]ch 1 very many tymes haue had occas[i]on to send thinge [f84 r.] from Newport to London and to bring from London to Newport did ever from tyme to tyme Chiefly desir[e]d when they haue so had any thing to be carried to imploy the said def[endan]t Walters, and to send their things w[hi]ch were to be carried to & for rather by him then by any other of his M[aiste]rs seruants, because he was lowly, and iust in his wordes & dealinge, insomuch as for this depon[en]t p[ar]te what soever he comitted To the same def[endant]s charge he accompted the same as safe to be caried as if he should haue carryed yt himself.

To the 2 3 & 4 Interrogatories this depon[en]t saieth he cann say nothing of his owne knowledge towching the robbery in the inter[rogatorie] menc[i]oned But at the next meetinge of the said def[endan]t after the said Robbery [was] comitted the said def[endan]t told this depon[en]t that he was robbed in his Jorney towards Newport vppon the sonday in or about evening prayer tyme beinge the xxth of Aprill in the Interr[ogatorie] menc[i]oned at Vgley, and he told this depon[en]t that he & his horses were drawn out of the highe

way into a wood thereby & that certayne stuff w[hi]ch this depon[en]t had sent by him (and was to make a suite of app[ar]ell for a boy) and a paire of shoes of the f[o]resaid Iohn Howlands were taken from him and xxxs in money or thereabouts w[hi]ch he had about him, And this depon[en]t saieth he hath heard by some of the inhabitaunt of Vgley & Quenden that the def[endant] after he was robbed did raise hue and Cry and that the same was so sued And saieth Further that the said def[endant] did tell this depon[en]t that they were three [or] 2 men w[hi]ch robbed him & told this depon[en]t what app[ar]ell they had, and that or [f85 r.] one of the horses was a sorrell, and a black annother a baye and this depon[en]t doth verely beleue his the s[ai]d def[endant]'s report to be trewe for diu[er]se of the inhab[it]ants were [from] the place where the said robbery was done [and] since the said robbery [was] Comitted haue reported in this depon[en]ts he[a]ringe that the def[endant] came to Vgley church after he was so robbed to craue help & to raise hue & Crye to p[ur]sue the theeues, and that the said def[endant]'s head at that tyme had bene broken & his thombs were swollen w[i]th byndinge & some of the same def[endants] have reported they went To the place where the robbery was done & there found the saddles of his horses lying in the ground & the pannells broken & stuffing pulled out & other cicu[m]stance what had bene then & there done To the said def[endant].

To the fiftte Interr[ogatorie] this depon[en]t saieth that he was p[re]sent when such exa[m]inac[i]ons as are now shewed to this depon[en]t were taken before the said Geoffrey Nightingale [f86 r.] and did sitt by his Clark Iohn Prince w[hi]ch wrote the said exam[in]ac[i]ons, so as this depon[en]t hard what the p[ar]ties sued w[hi]ch were exam[in]ed, & saw what was writen, as the said Iohn Prince wrote the same, and he saieth the sustaunce of eu[er]y of the p[ar]ties speeches then exa[m]ined were trewly sett Downe by the said Iohn Prince as farr forth as yt concerned the matter then in question is And that the hand of Iefferay Nitingale subscribed vnto the same Exa[m]inac[i]ons as hee verylie beleiueth is of the owne hand writing of the s[ai]d Ieffrey Nitingale.

To the sixth Interr[ogatorie] this depon[en]t saieth that before the said def[endant] Ralphe Walters was robbed as afores[ai]d, he this depon[en]t deliu[er]ed or caused to be deliu[er]ed To the same def[endant] certaine stuff which he had bought to mak[e] a boy a sute of app[ar]ell w[i]tall to be carried from London to his howse at Newport what the stuff was, and what value, & quantity yt was of this depon[en]t ((having bene serued w[i]th p[ro]c[esse]s vp-

po[n] both the pl[ain]t[iff] & def[endan]ts p[ar]te) hath in his deposic[i]ons for the pl[ain]t[iff] already sett Downe vpon his other & therefore refereth himself To the same his former exam[in]ac[i]on therein, and towching the def[endan]ts report of being robbed & what moves this depon[en]t to think the same his report to be trewe this depon[en]t saith as he hath already before in theis his deposic[i]ons declared And further hee Cannot certaynlye depose.

Peter Wyke

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[f87 r.] [Depositiones captae] Ex p[ar]te Ralp[he] Walters vs Thomas Stone [illegible] die Nov[embris] D[omi]ni R[egi]s Jac[obi] 7[^o]

Iohn Prince of Newport in the Countie of Essex yeoman of the age of 48 yeares or thereabouts being sworne & examined deposeth as followeth

To the first Interr[ogatorie] this depon[en]t saith that he remembreth the name of the said pl[ain]t[iff] Tho[mas] Stone sithence the Assizes in Essex in Som[mer] last was xije monethes where he sawe him, and otherwise he doth not knowe him nor is acquainted w[i]th him, And further saith that he hath knoweth the said def[endan]t Ralphe Walters by the spaces of three or fowr yeares now past, and thinketh that he is an honest harmeles man, And during that tyme, hath not knowe or heard the said Ralfe to raise any scandall, or false reports, or slanunder of any, And that he this depon[en]t and Geffrey Nightingale esqr beinge this depon[en]ts M[aiste]rs, and his sonnes and s[e]rvaunts and others haue diu[er]se & sondrie tymes vsed and ymployed the said Ralphe in cariages both from Newport to London, and from London to Newport in all w[hi]ch ymploym[en]ts he hath, dealt very iustlie and trulie, and hath demeaned himself honestly (for any thinge this depon[en]t knoweth, or hath hearde to the Contrarie.

To the 2 Interr[ogatorie] this depon[en]t saith that the same Ralf Walters whom short tyme after he was robbed, being as he then said and reported vpon a Sondaie the xxiiijth of Aprill as is induced in the said Interr[ogatorie], did repaire to Grayes Inne to speak w[i]th Geffr[ey] Nightingale esqr this depon[en]ts M[aiste]r and being a Iustice of Peace in the said County of Essex and acquainted him w[i]th the manner of the said Robbery, praying the s[ai]d Mr Nightingale to graunt him a war[r]a[n]t, for the app[re]hension of suspic[i]ous p[er]sons, but because he co[u]ld not Ste[r]nly declare the names of such p[er]sons as did robb him, the said Mr Nightingale did then

forbeare to graunt any warrant and willed him to stay till his coming home unTo the Countrey after the end of Easter terme, and in the meane tyme to learne their names (if he co[u]ld) and then he wo[u]ld exa[mi]n[a]te [them] [and do] Iustice. At w[hi]ch tyme [f88 r.] the said Ralf declared To the said Nightingale that the said robbery was donne vpon him in Ritling wood neare Vgley in Essex by three horse men, who ledd him out of the highwaie vnto the said woods and there bound him hand & foote, beate his head, and ransackt his Poulter Panniers and Saddles, cut his girts, wanties, and such lyke, and searched any place about him and toke from him 30s in money, a hatt, a Cloake, and c[e]rten oth[e]r things, w[hi]ch he then carried w[i]th him for Mr Weks to be deliv[er]ed at his howse in Newp[o]rt And further saith, that after he had losen his thumbes, and vntied the Cords wherew[i]th he was bound, thereupon he went ymediatly To the Church of Vgley being then Evening praier tyme vpon the Sondaie af[or]esaid and praidd the Constable and th[a]t the p[ar]ish[o]ners there assembled to come downe To the wood af[or]esaid, to searche for them that robbed him and w[i]thall to make forth hue and Crie w[hi]ch as he then said was donne accordingle And this depon[en]t furth[e]r saith that (as he remembreth) the said Ralf Walters did then tell this depon[en]ts M[aiste]r that the foresaid three horsemen w[hi]ch robbed him, the one of them haue a balck horse or geldinge, The Second a baye and the third a sorrell, w[i]th a Redd Saddle and that the p[ar]tie having the said Sorrell horse has a false beard or visere vpon his face, and did were a grenishe jerkyn laced, w[i]th a paire of bases of the same Collor. And this depon[en]t furth[e]r saith touchinge the matt[e]r in the hue and Crie and Color of the horses described therein, It appareth (as he thinketh) more playnly by the testimonies of the Constable of Vgley and oth[e]rs in that behalf sworne before the said Mr Nightingale at the instaunce of the said Ralf Walters [f89 r.] to w[hi]ch this depon[en]t referreth himself, w[hi]ch examynac[i]ons were by the said Mr Nightingale certified that the next Assizes them following in Essex whereof the said def[endan]t Walters sithence that tyme haue a Copies vnder the hand of the said Mr Nightingale, further To the said Interr[ogatorie] this depon[en]t cannot certainly depose.

To the third Interr[ogatorie] this depon[en]t cannot depose.

To the 4th Interr[ogatorie] (touching some p[ar]t[e] therof) this depon[en]t cannot depose otherwise than he hath before declared in the Second Interr[ogatorie].

To the vth Interr[ogatorie], this depon[en]t saith that (the examinacions touching the Circumstaunces of the said Ralph Walters robbery who shewed vnto him at the tyme of his examynac[i]on, were written by this depon[en]t and in substaunce are truly sett downe and the name (of Geffrey Nightingale) subscribed therevnto ys the proper hand writing of the said Geffrey, and written in the p[re]sence of this depon[en]t, ymediately after the writing of the examynac[i]ons aforesaid.

John Prince

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[f90 r.] [illegible] 19[^o] Jacobi R[egi]s 7[^o]

Interrogatories to be ministred vnto certaine Walters one of [document torn]
For and on the p[ar]te and behalf of Ralphe Walters one of the defend[an]ts
[document torn] of Thomas Stone plaintiff

Imprimis whether doe yow knowe the p[ar]tie plaintiff and the said Ralphe [document torn] defendant howe longe haue you knowen them or either of them doe you knowe orthe[document torn] Conscience that the [document torn] Ralphe Walters is an honest harmeles younge man and [document torn] [ca]usinge anye s[candall] [o]r False Reportes or Sclaunder of anye what soe[uer] [document torn] of what Condi[ion] [document torn] the sayde Walters and howe and in what manner hath he demeaned h[im] selfe [du]ringe all the tyme of your knowledge of him [document torn] declare [document torn] what yow know [document torn] heard touchinge the Contente of this Interrogatorye.

Item whether doe y[ow] [kno]we beleeeve or haue credibly heard that the said defend[an]t Raffe Walters on or aboute the Fowre and twentyth daye of Aprill last past was [tw]elue monethes in the sixth yeare of his maj[esties] raigne that now is the same beinge on [illegible] Sonday [document torn] yf yea abowte what tyme of the daye doe yow suppose the said Robbery was Com[mitted] and donne, where and in what place was the said robbery Committed & donne and whether did the said Walters raise anye hue and Crye presently after he was robbed And whether was yt pursued accordinglie And howe manye weare they as hee reported had robbed him, and what apparrell did they weare by his Reporte, what coulour weare theire horses as he reported And whether weare not such, men and horses at th[a]t tyme seene vppon the highe waye neere about the place where the robbery was comitted who did see [them]

seene by some of the inhabitaunts thereabout and & [sic] doe yow know or beleewe th[at] w[hi]ch the reporte of the said Walters was for iuste and trewe And whether was the same matter Examined before some Iustyce of the saide Countye and before whome And what haue you heard Iohn Averie of Vggley afforesaid reported touchinge the p[re]misses Declare what you knowe or had heard of thinke to be true w[i]thall the Circumstaunc[e]s thereof att lardge.

Item in what sorte or fashion did the saide Walters come vnto you, or anye other of the Inh[abitaunts of] the saide Towne of Vggley or Newport Pounde, when he came [to rayse] the said Hue and Crye And howe muche and of what valewe, did he [document torn] Fourth that hee was robbed of, and did he then declare & sh[ew] [document torn] tyme of his comminge to rasey hue & crye [to showe th[at] he was robbed & had beene bounded hand & foote And whether doe yow thinke and ver[ily belie]ve in your Conscience the that the said Walters was then robbed And that [what h]e then Affirmed was true, what are the most effectuall reasons that induce or move yow soe to thinke or beleewe.

:4: Item: wheteher doe your know haue heard or veri[ly]e beliewe in your Conscience that that the saide defendaunt Raphe Walters presentlye after suche tyme as he was soe robbed come vnto yow or some other of the Inh[abitaunts of] the Towne of Vggley and then and there Declare vnto yow how that he was robbed abused wronged and bounden hande and Feete And whether dyd not yow then perceyve and Fynde the thumbes and handes of the saide defendaunt Walters to be swollen w[i]th the ever harde bynding[e] of him by such p[er]sonnes that had soe robbed him And whether was not his head also bro[ken] at the same tyme And whether did some of the Inhabitants of the saide Towne of Vg[ley] repaire and got To the place in the woode where the said Walters was robbed and had byne bounden both hande and, Foote [document torn] And did not you or they then p[er]ceau the treadingge of mens Feete in the same place and alsoe [document torn] place in the same wood w[hi]ch had ben wallowed in and trampled inand alsoe [document torn] certaine money scattered outhe ground yf yea then howe much was yt & did you or any other p[er]son fynde A [document torn] bounde thereabouts & to whome was the same deliu[er]ed And whether did yo[w] [document torn] fynde the girtes or Surcingles or wantyes of the said defendaunts Ralffe Walters Sadle Cu[t and ta]ken in sunder and his S[ad]dle broken and ransacked and the Strawe lynnge or Stuffinge [document torn] pulled out and layde vppon the grounde And alsoe the lynynges of the said Walters [document

torn] [pull]ed out of purpose to search for money Declare yo[u]r knowledg[e] [howe &] in what man[ner] [document torn] the said Walters was founde and likewise how you founde horse and Sadle and girte in the woode together w[i]th all the Circumstauc[e]s thereof at large both what yow knowe haue heard or can saye or testifye therein expresse the same by the oath yow have taken.

5: Item whether are theise examinac[i]ons or writings now shewed vnto at the tyme of this yo[u]r Examinac[i]on importinge certaine Circumstanc[e]s concerninge the robbing of the said Raffe Walters in Substaunce knowen all and everit [sic] parte thereof for soe much as concerneth your p[ar]ticuler Examinacion And whether is the name of Ieffery Nightingalle Esquire subscribed therevnto the prop[er] hande writinge of the said Iefferye Nyghtingale yea or noe.

6 to Mr Weeks onely Item dyd you about the same tyme when the said Ralphe Walters was robbed send any thinge by him to be carryed from London to yo[u]r howse to Newporte yf yea what thing dyd you send or cause to be sent and of what value was the said, and dyd the said defend[an]ts afterwards tell yow that he had bene robbed and yo[u]r Stuffe and other things taken from him Doe yow thinke his reporte to be trewe and what moved yow so [document torn]ke expresse the same.

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[f91 r.][Depos[i]t[i]one]s test[is] cap[tae] 24 die Junij A[nn]o vij^{mo} D[omi]ni n[ost]ri Jacobi R[egi]s Sup[er] Interr[ogatoria] ex p[ar]te Tho[me] Stoune quer[entis] ministrat[a]

Katheryn Wrenche wief of Iohn Wrenche of the p[ar]ishe of S[ain]t[e] Marye Overies in Southwark in the Countai [sic] of Surrey Lynnen Weaver aged xxxix yeares or thereabow[t]s sworne &c.

To the 1 Interr[ogatorie] she saiethe she hath hard (& thincketh it to be trewe) that Nich[o]las Kefford one of the def[endan]ts did beare evill will vnto the s[ai]d Compl[ainan]t And further To the Interr[ogatorie] she cannot certenly depose.

To the 4th Interr[ogatorie] she saiethe that one [illegible] wief of Gracious Streete London (whether she be a def[endan]t in this cause or no this dep[onen]t doth not knowe) dyd shortly after the tenthe daie of Maye 1608 in the hearing of this depon[en]t at gyve owt in speeches that the s[ai]d def[endan]t Walters had byn robbed & that the pl[ain]t[iff] was the man that robbed

him, & that the s[ai]d Walters before the Iustice, tooke the s[ai]d pl[ain]t[iff] by the beard and said that he that [sic] ought that beard had robbed him or words to that effect And further to this Interr[ogatorie] she cannott depose.

To the xvjth Interr[ogatorie] she saiethe that she dyd not heard anye of the def[endan]ts reporte or speake the words in this Interr[ogatorie] menc[i]oned or any words to that effecte.

[f91 v.] To the xvij Interr[ogatorie] she saith that she dyd heare one T[homas] Okeley of Gracious street fondly saye that if the Company of Poulters beinge many in nomber dyd spende but fortie pounds a peece they would make the pl[ain]t[iff] Stone beinge but one a very poore man or words to that effect But anye of the other words in this Interr[ogatorie] menc[i]oned she th[i]s dep[onen]t dyd not heare spoken to her remembrance.

To the 19 Interr[ogatorie] shee saiethe that she dyd not heare anye of the def[endan]ts vtter or speake anye such words as in this Interr[ogatorie] are menc[i]oned or anye words to that effecte.

To the 12 Interr[ogatorie] shee saiethe she doth not knowe nor say such that the def[endan]ts wief or any of them the tyme in this Inte[rrogatorie] menc[i]oned dyd watch the doore of the s[ai]d pl[ain]t[iff] to any p[u]rpose or intent whatsoever neither dyd shee this Dep[onen]t heare the s[ai]d def[endan]ts or any of them vtter any such or like speeches as in this Interr[ogatorie] are menc[i]oned.

To the 24 Interr[ogatorie] shee saiethe that she did not heare anye of the s[ai]d def[endan]ts vtter any suche or like words as in this Interr[ogatorie] are menc[i]oned To anye of thee rest of thee Interr[ogatorie]s she is no appoynted to be exa[m]i[n]ed.

[signed with a mark]

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[f92 r.] [Depositones] Cap[tae] Die et An[no] pr[ed]ict[os]

Marie Geding wief of Iohn Ghedinge of thee p[ar]jshe of St Marie Overyes on Southwarke in the Countie of Surrey Inholder aged xxij^{tie} yeares or thereabowts sworne &c.

To the 1 Interr[ogatorie] shee sayed that the def[endan]ts dyd (as shee thinckethe) beare evill will vnto thee Compl[ainan]t, for what cause she cannott

certainly saye not can further certainly depose to this Interr[ogatorie].

To thee [sic] 4th Interr[ogatorie] she saiethe that on the day that the s[ai]d pl[ain]t[iff] was gone went to Chellmefford Ass[ai]sis to receyue his tryall there touching thee supposed robberye of the s[ai]d def[endan]t Walters in this Interr[ogatorie] menc[i]oned the wief of one Moyse dyd saye & repeat in the depo[nen]ts hear[ing] that Stone the gentleman theif was gone to Chelmeffold to be tryed & that there his knavery would bee founde owt, & knowen & that the s[ai]d Stone had allwayes carryed himself like a prowde kn[a]ive & had roaged vp & downe the Countries beyond the Seas w[i]th many other words of despight & mallyce against the s[ai]d pl[ain]t[iff] w[hi]ch this Dep[onen]t doth not nowe remember And further saiethe that within 3 or 4 daies after the s[ai]d pl[ain]t[iff] had receyved his tryall & was acquitted this dep[onen]t chaunced to talke againe w[i]th thee wief of the s[ai]d Moyse Att w[hi]ch tyme [f92 v.] this depon[en]t saye that she this Dep[onen]t was glad that the s[ai]d pl[ain]t[iff] her master had at his tryall quitted himself like an honest man whereunTo the wi[e]f of the s[ai]d Moyse aunswered that he might hancke the purse for thatt, & that the Devill was good to someboddy & soe was to him, & that she thought that the s[ai]d pl[ain]t[iff] had dealt w[i]th the devill or words to that effect And further this depon[en]t further hat one Ellis [illegible] of Gracious street afores[ai]d a good while before the s[ai]d pl[aintiff]s tryall saye vnto her this dep[onen]t beeing in Wynchester yard dying of clothes that the s[ai]d pl[ain]t[iff] having a scarfe before his face had robbed a Poulters man, & hat the Poulters man so robbed knowe him by a white tuffe of heare that he sawe vnder his Chynne that or some such like speeches And further to this Interr[ogatorie] she cannott depose.

To the xvjth Interr[ogatorie] she saythe that she dyd not heare anye of the s[ai]d def[endan]ts vtter anye suches speeches as in this Interr[ogatorie] are menc[i]oned or anye speeches to that effecte And further to this Interr[ogatorie] she cannot depose.

To the xvijth Interr[ogatorie] she saythe she dyd not heare any of the s[ay]d def[endan]ts so report or affyrme as in this Interr[ogatorie] is menc[i]oned [f93 r.] wether can she this depon[en]t further depose to this Interr[ogatorie] this she hath before depos[e]d.

To the iij Interr[ogatorie] shee saythe shee can say no words then she hath before said.

To the 12 Interr[ogatorie] shee saythe shee saythe she doth not knowe neither hath hard that the def[endan]ts wiefe or anye of them dyd watche the pl[ain]tiff[s] doore that tyme in this Interr[ogatorie] menci[o]n[e]d Wether dyd she this dep[onen]t heare the s[ai]d def[endan]ts or any of them so sweare or say as in this Interr[ogatorie] is menc[i]oned.

To the 24 Interr[ogatorie] she saythe that she dyd not heare the s[ai]d def[endan]ts or anye of them vtter such spe[a]ches as in this Interr[ogatorie] are menc[i]oned or any spe[a]ches to that effecte To any of the rest of the Inter[ogatories] she is not appoynted to be exam[ine]d.

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[Depositiones] Cap[tae] xxvij^{mo} [die] Junij An[n]o vij^{mo} [regni] D[omi]ni n[ost]ri Ja[cobi] R[egi]s

Rich[ard] Congrey of the p[ar]ishe of S[ain]t Peters in Cornehill London glasier aged 37 yeares or thereabouts sworne &c.

To the 9 Interr[ogatorie] hee saiethe he doth not knowe of anye such meeting had as in this Interr[ogatorie] ys menci[o]n[e]d neyther yet of anye such resoluc[i]ons advise or direcc[i]on[s] given as in the same Interr[ogatorie] is specified.

[f93 v.] To the xth Interr[ogatorie] hee saiethe thatt on the xiiijth daye of June 1608 Allen Baker, Nicho[las] Kyfford Tho[mas] Okeley and Iames Harlowe did come unto him this dep[onen]t & delyver vnto him a Warrant or Precept dated on the same day from S[ir] Tho[mas] Bennett Knight one of the Aldernes of the Cytie of London for thee apprehension of the nowe Compl[ain]an[t] & bringe him before the s[ai]d S[ir] Tho Bennett to answeare such matters or should be obiected againste him on his Ma[jes]t[ie]s behalf And he saiethe that the said p[er]sons w[hi]ch so bringe and delyver vnto him this dep[onen]t t the same Warrant vnderstands that the s[ai]d pl[ain]tiff was in the howse, & went not abrode, nor was in his shopp whereby he might be apprehended would haue had this dep[onen]t beinge then constable to haue entred into the s[ai]d Compl[ain]an[t]s howse & there to haue apprehended the s[ai]d pl[ain]tiff by vertue of the s[ai]d Warrant And this dep[onen]t beinge toke he same warrant to be insuffycient for that purpose for that there was not any menc[i]on made in the s[ai]d warrant of [co]llour or suspice [of] fellonye to doe & redelyverie the said warrant backe To the s[ai]d p[ar]ties , advise them to

procure a more suffycient warrant in that behalf or otherwise this dep[onen]t would not enter into the s[ai]d pl[ain]t[iff]s howse to apprehend him whereupp[on] the wief of Tho[ma] Okeley angerlie said that his dep[onen]t was more like [to h]elpe the s[ai]d pl[ain]t[iff] [party] then to s[e]rue warrant [vpp]on him And afterwards vpp[on] the same xiiijth daie of june 1608 one Rapse Walters accompanied w[i]th Allen Baker afores[ai]d br[o]ught vnto this dep[onen]t one other Warrant [f94 r.] from the said S[i]r Tho[mas] Bennett dated the s[ai]d xiiijth daye of June 1608 praying this dep[onen]t to enter into the s[ai]d playntiffs howse & there to apprehende the s[ai]d pl[ain]t[iff] by vertue of that warrant And [illegible] that this dep[onen]t was by the same warrant charged to make diligent searche in all howses w[i]thin his precinctes for the s[ai]d Thom[a]s Stone the nowe pl[ain]t[iff] who was directly charged to haue Comytte a robbery on the xxiiijth of Aprill then laste past in the highe waye neere Newport ponde in the Countie of Essex vpp[on] the s[ai]d Rapse Walters as by the s[ai]d warrant appeareth he this dep[onen]t dyd thee xiiijth day of June 1608 by vertue of the s[ai]d last menc[i]oned enter into the howse of the s[ai]d pl[ain]t[iff] & there dyd apprehend the s[ai]d pl[ain]t[iff] & him dyd beinge before S[i]r Stephen So[a]me K[nigh]t onne of his Ma[jes]t[ie]s Iustices w[i]thin the s[ai]d Cittie to be exam[ine]d touchi[n]g the s[ai]d supposed robbery & to be dealt w[i]thall according to Iustice Before & vnto w[hi]ch s[ai]d Iustice the s[ai]d Walters dyd affyrme that the s[ai]d pl[ain]t[iff] had robbed him & w[i]thall [expressid] what & howe much was taken from him, the certenty whereof the dep[onen]t doth nott nowe remember And thereupp[on] the s[ai]d pl[ain]t[iff] was bounde to appeare at the Sessions then next fall A[ss]i[se]s to be holden for the Cyttie of London there to answere the s[ai]d supposed robbery But who dyd sue fourthe or p[r]ocur[e]d the s[ai]d warrants, or who caused the same to be br[o]ught [95 a] vnto this dep[onen]t, this dep[onen]t cannott certenlie tell wehther [sic] doth this dep[onen]t remember that any p[er]son or p[er]sons vs[e]d vnto him this depon[en]t the name of the L[ord] chief Iustice for his this depon[en]ts pre[s]a[n]tly care in the s[ai]d busynes.

To the xjth Interr[ogatorie] he sayth as To the xth Interr[ogatorie] he hath s[ai]d, and that he doth not remember that any of the def[endan]ts dyd tell him this depon[en]t that the def[endan]t Walters was not in Towne Not re[mem]b[er]eth anye more to this Interr[ogatorie] then he hath before expressed To the xth Interr[ogatorie].

To thee xijth Interr[ogatorie] hee sayth as To the xth Interr[ogatorie] he hath

said And more saith not to this Interr[ogatorie] To any of the rest of thee Inte[rrogatorie]s he is not Exam[ine]d by the pl[ain]t[iff]s dyrecc[ion]s.

Richard Congrey

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[f95 r.] [Depositiones] Cap[tae] 27 Junij An[no] vij^{mo} Ja[cobi] R[egi]s

Sara Medcalf Spynster servant to one Mrs Ryley Widowe Dwelling in Trynietie Lane London aged xx^{tie} yeares or thereabowts sworne &c.

To the 4 Interr[ogatorie] shee saith that she dyd not at anye tyme heare anye of the def[endan]ts vtter or gyve fourthe anye suche speeches as in this Interr[ogatorie] are particulerlie menc[i]oned or anye words to that effect.

To the vth Interr[ogatorie] she sayth that she this deponent abowt half a yeere nowe past hard one Hunter dwelling next howse vnto Mr Stone the s[ai]d say that if it could be p[ro]ved that the s[ai]d Mr Stone had robbed Walters then the Poulters would hange the s[ai]d Stone & then they should see both mother & daughter goe howlinge up & downe the streetes or words to that effect but this depon[en]t hard not anye suche other words speeches as in this Interr[ogatorie] are menc[i]oned to her uttermost remembraunce And she further saith shee hard that some of the def[endan]ts dyd accompany the s[ai]d Walters To the s[ai]d Assises at Chelmefford in Essex menc[i]oned in this Interr[ogatorie] And further to this Interr[ogatorie] she cannott depose To anye of the rest of the Inte[rrogatorie]s she is not exam[ine]d by the pl[ain]t[iff]s dyrecc[ion]s.

[signed with a mark]

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[f96 r.] [Depositiones] Cap[tae] 28 D[omi]ni Junij 1609

Roger Willyams of gracious Streete London Cooke and xlv yeares or thereabouts sworne &c.

To the 1 Interr[ogatorie] sayeth he doth not knowe nor hath credibly hard that the s[ai]d def[endan]ts or any of them dyd conceyve or beare anye evill will or mallice vnto the said Compl[ainan]t for anye cause whattsoever whether doth this depon[en]t knowe of anye suite in Lawe or vyanance betwixt the Co[m]pl[ainan]t & def[endan]t but only this suyte in this ho[norable] Court.

To the 7 Interr[ogatorie] saith hee doth not knowe that anye of the s[ai]

d def[endan]ts were arrested in London at the playntiffe suite for speaks of anye sclanderous words against the said Compl[ainan]t or that anye of the said def[endan]ts dyd p[er]swade or endevor to p[er]swade the said Walters to stand unto or iustefy such words as had byn spoken against the said pl[ain]t[iff] touching the said supposed robbery or that the said def[endan]ts dyd affyrme or gyve owte that if the s[ai]d Walters should not doe that then they or any of the others def[endan]ts should be vndone or should smart[e] for speak the s[ai]d words or to any such effecte.

To the 21 Interr[ogatorie] he saythe he dyd not see or heare any of the def[endan]ts demande [f96 v.] or aske one of another whether they would ryde to Chellmefford to see Stone the gentleman theif hanged nor hard any of them saye that they were sure that he haue his pasporte & neuer would retorne agayne as in this Interr[ogatorie] is supposed Neither dyd he this depon[en]t see anye of the s[ai]d def[endan]ts accompanye the s[ai]d Walters at the s[ai]d Assises in Essex nor can say any thing touching the rest of the contents of this Interr[ogatorie].

To the 22 Interr[ogatorie] he sayed he doth not knowe nor hath hard of any such Watching about thee playntiff doore as in this Interr[ogatorie] is supposed Neyther dyd anye of the def[endan]ts in this d[e]p[onen]ts hear[ing] or To the d[e]p[onen]ts knowl[e]d[ge]s vse anye such other or speches as in this Inte[rrogatorie] are menc[i]oned or any speches to that effecte.

To the 24 Interr[ogatorie] he saieth that he this d[e]p[onen]t dyd not at any tyme heare anye of the def[endan]ts vtter anye suche speaches as in this Interr[ogatorie] are mencioned or any speches to that effecte To anye of the rest of the Interr[ogatorie]s he is not exam[ine]d.

[signed with a mark]

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[f97 r.] [Depositiones] Cap[tae] 28[º] Die Junij A[nn]o R[egni]s D[omi]ni n[ost]ri Jac[obi] R[egi]s

Sally Willyams wief of Roger Willyams of Gracious streete London Cooke and fortie fower yeares or thereabouts sworne &c.

To the first Interr[ogatorie] shee saieth she doth not knowe nor hath credibly hard that thee def[endan]ts or anye of them dyd before the commencement of this Suite conceyve or beare anie evill will or mallice vnto the s[ai]d

Compl[ainan]t for anye cause whatsoever Nor that doth she the def[endan]t knowe of anye suyte in Lawe or varyance betwixt thee Compl[ainan]t & any of the def[endan]ts but only this Suite nowe depending in this ho[norable] C[ou]rte.

To the 7 Interr[ogatorie] shee say that she doth not remember that anye of thee def[endan]ts were arrested in London at the Plaintiffs suyte for speakinge of anyee slanderous words against the said pl[ain]t[iff] Neyther can shee this depon[en]t certainly depose to any of the reste of the Contents of this Interr[ogatorie].

To the 21 Interr[ogatorie] shee sayth that she this depon[en]t dyd not heare anie of the def[endan]ts dem[aun]de or aske one of another whether they would ryde to Chellmefford to see th Stone thee gentleman theif hanged, nor hard any of thee s[ai]d def[endan]ts saie that they were sure that the pl[ain]t[iff] had his pasporte & neuer would retorne agayne as is supposed Neyther dyd shee this dep[onen]t see anye of the def[endan]ts accompany [f97 v.] the sayd Walters at the s[ai]d Assises in Essex Neyther was this depon[en]t at Chellmefford assises to see what was, done there Neyther can she this depon[en]t depose anye thinge to anye of the reste of the Contents of this Interr[ogatorie].

To the 22 Interr[ogatorie] she saythe shee doth not knowe nor hath hard that anye of the def[endan]ts wyeffs dyd for any intent or purpose Watch the pl[ain]t[iff]s doore thee tyme in this Interr[ogatorie] menc[i]oned Neyther can she this depon[en]t depose to any of the reste of the Contents of this Interr[ogatorie].

To the 24 Interr[ogatorie] shee sayethe that she dyd not to her uttermost remembrance heare anyee of the def[endan]ts so affyrme or saye as in this Interr[ogatorie] is menc[i]oned or to any such effecte To anye of the reste of the Interrs she is not examyned by the pl[ain]t[iff]s direc[cion]s.

[Signed with a mark]

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[Depositiones] Cap[tae] die et A[nn]o pr[e]d[ic]t[os]

Iohn Marshall of Southwark in the Countie of Surreye Baker aged xlix^{tie} yeares or thereabouts sworne &c.

To the xvth Interr[ogatorie] hee sayethe that Mr Stapleford, Henry Bate, Iohn

Woodbridge, Anthonye Hakes, Hawke & dyvers other whome this depon[en]t doth not remember dyd accompany [f98 r.]the said Walters To the said Sessions holden in the old Baylie nere Newgate & kepte him Company all the tyme he was there & at such tyme also as he the s[ai]d Walters as they thoughte should haue gynen evydence against the s[ai]d pl[ain]t[iff] for the s[ai]d suspected felonye and robberye And this depon[en]t saiethe that the s[ai]d Walters dyd then affyrme vnto the C[ou]rte then there syttinge that the s[ai]d pl[ain]t[iff] was the man that robbed him in Essex neere vnto Vgley & that the s[ai]d pl[ain]t[iff] had then on a false beare & that he had taken awaye dyuers things from him naming in p[ar]tyculer a hatt, a Cloke, xxxx in money, the owtside of a womans gowne, & dyverse other thins in a fardell And the s[ai]d Walters beinge then asked by the [illegible] of [illegible] howe he knewe the s[ai]d pl[ain]t[iff] [was] the man that robbed him sworne that he knewe him by the white locke or tuffe of heare he sawe vnder his beard, or otherwise he should not haue knowen him But whether the s[ai]d Walters was encorraged or p[er]swaded to say or affyrme any of theis thinges by anye of thee def[endan]ts or no[t] this depon[en]t def[endan]t not knowe Only he saythe that the s[ai]d Henry Bate & Mr Stapleford then s[a]yd that the s[ai]d Walters was a very honest man [f98 v.]And this depon[en]t then told the said Walters that hee this depon[en]t dyd thinke him the s[ai]d Walters to be much mistaken in saying that the s[ai]d pl[ain]t[iff] (whome this depon[en]t holde to bee a very honest mand) had robbed him And therunTo the said Walters answered in this manner viz Seeinge I haue said th[a]t I will say it still , thoughe I be pulled in peeces w[i]th wild horses And further sayth that when the s[ai]d Walters was done owt of the Sessions howse one of the Poulters (whose name the depon[en]t doth nor knowe) saye vnto the s[ai]d Walters, howe nowe Walters, what newes of Stone meaning the pl[ain]t[iff] And the s[ai]d Walters a[n]swered Stone is bound ower to appeare at the Assises at Chelmefford And thervnto the s[ai]d Poulter a[n]swered saying By god then if wee hange him not wee shall undoe him And this depon[en]t replied that it were better they were all hanged then so honest A man as the s[ai]d pl[ain]t[iff] should be hanged After the speak of w[hi]ch s[ai]d words the said Stapleford, Hawkes, Bate, Woodbridge & the s[ai]d Poulter whome this depon[en]t knowe not & dyv[er]s other Poulters went in company of the s[ai]d Walters afores[ai]d To the 3 tunnes in Newgate M[ar]kett And more saythe not to this Interr[ogatorie].

To the xvith Interr[ogatorie] he sayth that the afores[ai]d Woodbrydge, Bate,

Hawkes & one Leake accompanid the s[ai]d Walters To the Assises [f99 r.]at Chelmefford in Essex where they stayed w[i]th the s[ai]d Walters during the tyme of the s[ai]d Assises: And To the reste of this Interr[ogatorie] he saythe as he hath before said And more to this Interr[ogatorie] hee Cannott depose.

To the 21 Interr[ogatorie] hee saythe hee knoweth not any thing con[cer]ning the matters in this Interr[ogatorie] menc[i]oned more then he hath before declared.

To the 25 Interr[ogatorie] hee saythe that he this depo[nen]t was at the Assises in Essex when the def[endan]t Walters dyd gyve in evydence uppon Indyctm[en]t openly at the barre before the whole Courte & Great Inquest & that the s[ai]d Walters dyd then gyve in evydence that the s[ai]d nowe pl[ain]tiff had robbed him betwixt Stansted Momfchett & Vgley in Essex of a hatt, a cloke, xxxs in money & the owtside of A Woman's gowne And he saythe that the s[ai]d Bake, Woobryd[g]e Hawkes & Leake were presente at the barre w[i]th the s[ai]d Walters at that tyme & affyrmed the s[ai]d Walters to be an honest man.

To the 26 Interr[ogatorie] he saythe that after the s[ai]d pl[ain]tiff was cleared at the s[ai]d Assises the s[ai]d Bate came to this depon[en]t to his Inne & entreated him the be A [discontinued].

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[f101 r.] [Depositones] Cap[tae] primo die Julij A[nn]o vij^{mo} D[omi]ni N[ost]ri Ja[cobi] R[egi]s

Anne Turner of Enfilde in the Countie of Myd[d]l[esex] wyddowe aged fower score yeeres or thereabouts sworne &c.

To the 2 Interr[ogatorie] she saiethe that she is not able to depose that the def[endan]t or any of them dyd vppon or abowt the xth daye of Maye 1608 assault sett vpp[on] stryke or stayed the s[ai]d Compl[ainan]t in the K[ing]e Highe Waye leading from London to Ware neere vnto theeTownne of Enfilde menc[i]oned in this Interr But she saiethe that at or abowt that tyme tyme certen persons to her unknowen came to Enfilde & there renne into the howse of Johane Moote & from thence tooke a pitchforke & a spytt (the s[ai]d Johane Moote beinge then a spyng in her howse, & this depon[en]t being then also spying in her howse [illegible] To the howse of the s[ai]d Johane Moote) and the s[ai]d unknowen p[er]sons rann w[i]th the s[ai]d pitchforke & spitt t[o]wards a bridge in Enfilde & there she this dep[onen]t & the s[ai]

d Johanne Moote dyd see them talking w[i]th another stranger vpp the said bridge but she saythe she dyd not see them stricke at the s[ai]d stranger nor offer to strycke him and she further saithe that after they [f101 v.] the s[ai]d unknowen p[er]sons had talked w[i]th the said Stranger they returned backe To the howse of the s[ai]d Johane Moote & dyd leave the s[ai]d pichforke and the s[ai]d Spitt in the same place from whence they tooke the same And this depon[en]t saithe that she this depon[en]t hard not anye of the said p[er]sons or any other talke or speech ofe [sic] anye robberye Nerther can she this depon[en]t further depose to this Interr[ogatorie].

[Signed with a mark]

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[Depositiones] Cap[tae] Die et A[nn]o pr[e]d[ic]t[os]

Johanne Moote of Sufilde in the Countie of Myd[d]l[e]s[ex] Wyddowe aged Lx yeares & upwards sworne &c.

To the 2 Interr[ogatorie] shee saythe that one Hughe Bull S[i]r Rob[er]te Wrothes man & one other person whose name or syrname she doth not knowe nor at any tyme thentofore had seene him came to Enfilde & ranne into her howse & there tooke a pichforke & a spytt owt of her s[ai]d howse shee this depon[en]t being then there a spyinge And this depon[en]t then said vnto the s[ai]d Bull & vnto the s[ai]d unkn[o]wen p[er]son that they should not stricke anye boddy w[i]th her thinges And thervpp[on] the s[ai]d Bull & the s[ai]d oth unkn[o]wen p[er]sons presently bruoght [sic] the [f102 r.] s[ai]d pitchforke & spitt into this depo[nen]ts s[ai]d howse agayne & there and then downe where they had them And shee saythe that shee this depon[en]t dyd not see the pl[ain]t[iff] or any boddy els[e] sayed assaulted or stryke nor dyd then heare any talke or menc[i]on of anye robbery nor can further or otherwise depose to his Interr[ogatorie].

[Signed with a mark]

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[Depositiones] Cap[tae] Die et A[nn]o pr[e]d[ic]t[os]

Iohn Kealne of the p[ar]ishe of Christes church London gent[leman] aged L^{tie} yeares or thereabowts sworne &c.

To the 28 Interr[ogatorie] he saythe that abowt a yeare nowe past the nowe Com-

pl[ainan]te dyd comence and prosecute against the def[endan]t Raphe Walters in thee guildhall Court an acc[i]on of the case for slaunderous words supposed to be spoken by the s[ai]d Walters of or against the s[ai]d nowe depo[nen]t.

To the 29 Interr[ogatorie] hee saithe that he this depon[en]t by thee ap-
poyntm[en]t of the s[ai]d Walters one of the nowe def[endan]ts dyd sute or
p[ro]cure further a wrytt of pryvedge from the C[ou]rte of co[mm]on pleas
at Westm[ins]t[e]r to remove the s[ai]d suyte and acc[i]on from Ghildhall
afors[aid]d [f102 v.] To the s[ai]d C[ou]rte of Com[mon] Pleas at Westm[ins]
t[e]r And hee saythe further that Henrye Bate one of the nowe def[endan]
ts dyd paye or deliuer money vnto him this def[endan]t to be by him this
depon[en]t dis[im]bursed for & about the s[ai]d Wrytt of pryvedge And
further saithe that the s[ai]d nowe pl[ain]t[iff] dyd obteyne a procedendo
vppo[n] the s[ai]d Wrytt of privedge.

To the 30 Interr[ogatorie] hee saythe he hathe hard & beleveth it to be trewe
that the s[ai]d Walters the def[endan]t dyd afterwards sue furthe or p[ro]cure
a H[ab]eas Corp[us] from the C[ou]rte of K[inge]s Benche at Westmin[s]t[e]
r for the removinge of thee s[ai]d cause & that the s[ai]d Henry Bate before
menc[i]on[e]d dyd disburse the fees & charges therof for the s[ai]d Walters,
& that the s[ai]d pl[ain]t[iff] dyd p[ro]cure a procedendo.

To the 31 Interr[ogatorie] hee saythe that the s[ai]d Walters dyd afterwards (as
this depon[en]t hath hard & beleveth to be trewe) sue further an other H[ab]
eas Corp[us] owt of the s[ai]d C[ou]rte of K[inge]s benche at West[minster]
er for removinge of the s[ai]d cause, & that the s[ai]d Henrye Bate before
menc[i]oned dyd likewise disburse the fees & charges therof for the s[ai]d
Walters the same being aboutw xiiij.

[f103 r.] To the xxxijth Interr[ogatorie] he saythe that the s[ai]d nowe Compl[ain-
an]t by verdict & indy[ct]ment did recouer in thee s[ai]d acc[i]on of the case
against the s[ai]d Walters costs & damages To the sume of one hundred marks
or thereabouts as the dep[onen]t remembrethee And this depon[en]t saythe
that the s[ai]d Henrye Bate onely (& nonne other of the def[endan]ts to this
dep[onen]ts knowled[ge]s) dyd disburse alle fees & charges in the s[ai]d Suit
for the s[ai]d Walters giving money of the s[ai]d Walters in his hands to doe the
same as the s[ai]d Bate told this dep[onen]t, & that he this d[e]f[endan]t dyd
[illegible] the s[ai]d sute for the s[ai]d Walters at the s[ai]d Walters requeste.

To the 33 Interr[ogatorie] he saythe that he this depon[en]t at the requeste

of the s[ai]d Walters dyd sue further a wrytt of error upp[on] the s[ai]d indy[c]ment, & that the s[ai]d Henry Bate onlie dyd from tyme to tyme delyver money vnto this depon[en]t to disburse in that behalf the same being the money of the s[ai]d Walters as this depon[en]t thincketh And this depon[en]t saythe that the s[ai]d Indy[c]m[en]t was reversed touchinge the erronious p[ro]ceed[ings] of the nowe pl[ain]t[iff] after the s[ai]d wrytt of error had depended for the space of nyne or tenne monthes of thereabowtes And more sayeth not to this I[nt]e[r]r[ogatorie] To any of the rest of the Interr[ogatorie]s he is not exa[mi]n[e]d by the pl[ain]t[iff]s dyrecc[i]on[s].

p[er] me Johan Keal[n]e

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[f103 v.] [Depositiones] Cap[tae] Die et[c] A[nn]o pr[e]d[ic]t[os]

Peter Weekes of Newport in the Countie of Essex gent[leman] aged fiftye yeares or thereabowts sworne &c.

To the xxvijth Interr[ogatorie] hee saythe that in or about Aprill 1608 hee this depon[en]t dyd delyver or cause to be d[e]l[y]vered vnto Raphe Walters one of the nowe def[endan]ts fyve yards & half or thereabowts of Norwich stuffe called (as hee thinketh) [Phillisellis] to bee d[e]l[y]vered by the s[ai]d Walters to his this depo[nen]ts wyf at his this depo[nen]ts howse in Newport in Essex And he thinckethe that the s[ai]d Stuff was half a yard brode or thereabowts And further saythe that the s[ai]d Stuff was not d[e]l[y]vered to this dep[onen]ts s[ai]d wief by the s[ai]d Walters acc[or]ding to this depo[nen]ts dyrecc[i]ons, furhter saithe that the s[ai]d Walters (w[i]thin a fortnight after he had receyved the s[ai]d Stuff of this depo[nen]t to te carryed into Essex as afores[ai]d told this depon[en]t that hee was robbed nere Vgley in Essex & that in the same robbery the sayd stuff was amongst other things taken from him the s[ai]d Walters, And futher that he this depo[nen]t hath not as yet receyued anye recompence for the s[ai]d stuff at the hands of the s[ai]d Walters or of anye other.

Peter Wyke

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[f104 r.] [Depositiones] Cap[tae] 3^o die Julij A[nn]o vij^{mo} D[omi]ni n[ost]ri Ja[cobi] R[egi]s

Charles Yeoman of the p[ar]lishe of S[ain]t Bartholomewes neere [illegible] London Scryuenor aged 35 yeares or thereabowts sworne &c.

To the xijth Interr[ogatorie] hee saithe that in June 1608 thee pl[ain]t[iff] was brought beforee S[i]r Stephen Sonne K[night]t in this Interr[ogatorie] men[cione]d & that then the s[ai]d Walters affyrmed that the pl[ain]t[iff] had robbed him the s[ai]d Walters at or neere Vgley in Essex of xxxs in money, a Clocke, a hatt, a fardell, & (as this depon[en]t remembrethe) a gowne or gowne clothe And theruppo[n] the s[ai]d pl[ain]t[iff] was bounde over by the s[ai]d S[i]r Stephin Sonne to appeare at the Sessions next fellowinge to be holden for London there to make annswere touching the s[ai]d accusac[i] on And this depon[en]t & one Rob[er]t[e] Grise were bounde for the s[ai]d pl[ain]t[iff]s apparance accordinglie And more or further so saiethe not to this Interr[ogatorie].

To the xvth and xvjth Interr[ogatorie] he saiethe that at the s[ai]d Sessions in the old baylie; and at the Assise at Chellmefford, & allso before the s[ai]d S[i]r Stephin Some Bates & Woodbrydge twoee of the def[endan]ts in this cause & dyvers others who were find to bee Poulters in Gracious Streete dyd accompany the s[ai]d Walters But this depon[en]t could not [f104 v.] come to heare the [e]vydence gyven by the s[ai]d Walters against the s[ai]d p[lain]t[iff], other then that he this depo[nen]t dyd heard the s[ai]d Walters accuse the s[ai]d pl[ain]t[iff] before the s[ai]d S[i]r Stephen Some, w[hi]ch this d[e] p[onen]t well remembrethe for that the s[ai]d Woodbridge beinge then asked what he had to doe in for Walter answered that the s[ai]d money taken away from the s[ai]d Walters was his And more or further he remembrethe not to depose To theis Interr[ogatories] or either of them.

To the 29 30 31 32 & 33 Interr[ogatories] he saiethe that after the Assises at Chelmmefford a tryall was had at the Guildhall in London in an acc[i]on vpp[on] the case betwixt the s[ai]d pl[ain]t[iff] and the s[ai]d Walters w[hi]ch s[ai]d acc[i]on (as this depo[nen]t had credibly hard) was removed several tymes by some of the def[endan]ts & brought downe agayne by the s[ai]d pl[ain]t[iff], In w[hi]ch s[ai]d acc[i]on the s[ai]d Walters was condempned in one hundred marks Damages as this depo[nen]t hath likewise hard And this dep[onen]t hath allsoe hard that a Wrytt of Error hath byn brought at the Suyte of the s[ai]d Walters vpp[on] the s[ai]d recov[er]ie And more hee remembreth not touching the Matters in this Interr[ogatorie] menc[i]oned To any of the rest of the Interr[ogatories] hee is not exa[mi]ned by the pl[ain]t[iff]s dyrecc[i]ons.

P[er] me Carolu yeoman

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[f105 r.] [Depositiones] Cap[tae] [Die] 3[^o] Julij 1609

George Bromley of the p[ar]ishe of S[ain]t[e] Mary Wooll ner[e] London Grocer aged 26 yeares or thereabowtes sworne &c.

To the 4th Interr[ogatorie] hee saythe he hard the def[endan]ts Raphe Walters only (& none other of the def[endan]ts) w[i]thin one yeare nowe past (the certen day or tyme otherwise he doth not remember) reporte & saye, that Tho[mas] Stone the pl[ain]t[iff] had robbed him And this speche was spoken by the s[ai]d Raphe in the presence & hearing of Iohn Woodbridge & his wyfe & of this depo[nen]t And more hee re[mem]breth not to this Interr[ogatorie].

To the vijth Interr[ogatorie] hee saythe hee Cannott certenly depose either of his owne knowledg[e] or by any certen or credible reporte.

To the 16 Interr[ogatorie] hee saythe he hath hard and thinckethe it to be trewe that some of thee def[endan]ts in this cause dyd accompany the s[ai]d Walters to & at the assises at Chelmefford menc[i]oned in this Interr[ogatorie] But this depon[en]t saith he that he this depon[en]t dyd not heard any such words uttered or spoken as in this Interr[ogatorie] or in any p[ar]te therof are menc[i]oned.

To the 24 Interr[ogatorie] hee saith that he this depon[en]t dyd not heard anye of the def[endan]ts so affyrme or saye as in this Interr[ogatorie] is supposed To anye of the rest of the Interr[ogatorie] hee is not exam[ine]d by ther pl[ain]t[iff]'s dyrenc[ion]s.

P[er] me George Bromley

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[f105 v.] [Depositiones] Cap[tae] Die et A[nn]o pr[e]d[ic]t[os]

Rob[er]t Hall of the p[ar]ishe of S[ain]t[e] Mary Overyes in Southwarke in the Countie of Surrey hu[sband]man aged xlvj^{tin} yeares or thereabouts sworne &c.

To the xvth Interr[ogatorie] he saythe that Henry Bates Edw[ard] Leake, Iohn Woodbridge & one Moyse 4 of the def[endan]ts in this cause & dyvers others w[i]th then dyd accompanye the s[ai]d Walters To the said Sessyons holden in the old baylie neere Newgate & dyd there accompany the s[ai]d Walters so longe as the s[ai]d Walters was there & at such tyme allso as the s[ai]d Walters gave evydenge against the s[ai]d pl[ain]t[iff] for the supposed fellownye

& robbery in this Interr[ogatorie] menc[i]oned And this deponent dyd at the s[ai]d sessions heare the s[ai]d Walters affyrme vnto the C[o]rte then there syttinge that the s[ai]d pl[ain]t[iff] was the man that robbed him nere Vgley in Essex & that the s[ai]d pl[ain]t[iff] at the tyme of the s[ai]d robbery had on a false beard & tooke then away from him xxxs in money, a hatt, a cloke, a gowne or gowne clothe & other thinges And this dep[onen]t hath hard it rep[o]rted & bleveth it to bee trewe that the s[ai]d Walters was encouragid or p[er]swaded so to say by the s[ai]d def[endan]ts that so kept his Company at the said Sessions as afores[ai]d.

[f106 r.] To the xviith Interr[ogatorie] hee saythe he doth not Knowe of anye such reporte as in this Interr[ogatorie] is menc[i]oned.

To the xxjth Interr[ogatorie] hee saythe he dyd not heare anye of the def[endan]ts dem[a]unde or aske one of another whether they would ryde to Chellmeford to see Stone thee gentleman th[e]if hanged or that they were sure that he had his pasport & neuer [miscount] would retorne agayne as in this Interr[ogatorie] is supposed nor hard any such other wordes spoken as in this Interr[ogatorie] are menc[i]oned But this depo[nen]t saiethe that hee this dep[onen]t dyd see Stapleford Leake, Bates, Woodbrydge & others of accompani & counten[a]unce the s[ai]d Walters at the s[ai]d assises in Essex And further or more to this Interr[ogatorie] hee cannott depose.

To the 25 Interr[ogatorie] this deponent saiethe that hee this deponent was at thee Assises in Essex when the s[ai]d def[endan]t Walters dyd gyve in evydence vpp[on] the s[ai]d Indyc[tm]en[t] openlye at the barre before the whole C[ou]rte & great Inquest, & that the s[ai]d Walters then & there (being accompannd & Counten[a]u[n]ced by the s[ai]d Stapleford, Leake, Bates, Woodbrydge & others) gave in evydence that the s[ai]d pl[ain]t[iff] had robbed him the s[ai]d Walters nere Vgley in Essex & London taken from him xxxs in money a hatt, a cloke, a gowne or gowneclothe & other thinges And [107 a] further of more to this Interr[ogatorie] or to anye p[ar]te thereof so saythe he cannott depose.

To the xxxvth Interr[ogatorie] hee saythe that the horse of the s[ai]d pl[ain]t[iff] was in this depo[nen]ts stable in Southwarke all Sonday beinge the xxiith daye of Aprill 1608 (beinge the very daye that the s[ai]d Walters supposed he was robbed nere Vgley in Essex by the s[ai]d pl[ain]t[iff] And this depon[en]t hath credibly hard & verely beleveth it to be trewe that the s[ai]d Stone the pl[ain]t[iff] was in London all that Sonday yet this depon[en]t dyd not see

the s[ai]d pl[ain]t[iff] on that Sunday in London or els[e] where And further saith that Iohn this depon[en]ts then Ostler was w[i]th the s[ai]d Stone the pl[ain]t[iff] at this the s[ai]d Stones howse in London at twoe seu[er]all tymes on that the s[ai]d Sunday to fetch from thence the Sadle of the s[ai]d Stone the pl[ain]t[iff] to this depon[en]ts Stable in Southwarke And further this depon[en]t saith that the s[ai]d pl[ain]t[iff] dyd bringe & p[ro]duce dyv[erse] Wittness[e]s & other testymonye To the Assises at Chelmefford w[hi]ch dyd p[ro]ve the s[ai]d Stones be[ing] in London all the s[ai]d Sunday & his be[ing] at the C[ou]rte the day before being the feast day of S[ain]t George attending his place of servyce And this depon[en]t saythe that on the s[ai]d twoe dais the s[ai]d playntiffs horse stood in this depon[en]ts stable in Southwarke And further ot more to this Interr[ogatorie] he saithe he cannot certainly depose To anye of the rest To the Interr[ogatories] he is not exa[mi]n[e]dyd by the pl[ain]t[iff]^s dyrece[ion]s.

by me Robart Hall

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[f107 r.] [Depositiones] Cap[tae] 6 Julij A[nn]o pred[ic]to

Rich[ard] Pallfreman of London Grocer aged 30 yeares or thereabowts sworne &c.

To the xxxvth Interr[ogatorie] hee saithe thatt he this deponente was in thee Compaye of Tho[ma]s Stonne the pl[ain]t[iff] in London from fower of the clocke in the afternoone of Sondaye the xxiiijth of Aprill 1608 vntill six of the Clocke in the afternoone of the same daie And this depon[en]t sayth thatt the s[ai]d Stone pl[ain]t[iff] dyd bringe or p[ro]duce this def[endan]t & Dyv[er]s other wytness To the Assises at Chellmeford proued the s[ai]d pl[ain]t[iff]s be[ing] in London all the s[ai]d Sunday & his beinge at the C[ou]rte the daye before beinge the feast day of S[ain]t George & then attend[ing] his place of s[e]rvyce and further to this Interr[ogatorie] he cannott depose.

Richard Palfreman

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[Depositiones] Cap[tae] die et An[no] pred[ic]t[os]

Tho[mas] Stanford of the p[ari]she of S[ain]t Buttolphes w[i]thout Allgate London Ostler aged 26 yeares or thereabouts sworne &c.

To the xxxvth Interr[ogatorie] hee saiethe that the s[ai]d pl[ain]t[iff] Tho[mas] Stone was in London in the Company of the depon[en]t abowt twoe of the clocke in the afternoone of the s[ai]d Sondag menc[i]oned in this Interr[ogatorie] on w[hi]ch Sondag the s[ai]d Walters one of the def[endan]ts supposed he was robbed neere Vgley in Essex by the s[ai]d pl[ain]t[iff] And he sayth that the s[ai]d pl[ain]t[iff] dyd bring abowt 30 wytnesses as the depon[en]t re[mem]brethe To the Assises at Chellmefford w[hi]ch p[ro]ved the s[ai]d pl[ain]t[iff]s being in London all that Sondag & his And further or more to this Interr[ogatorie] he cannott ce[r]t[en]ly depose.

[signed with a mark]

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[f125 r.] 1609 RB

[Interrogatories to] be ministred vnto Avice Barkey according to an Order of this Court made the xxi^o die Junij Anno septimo Jac[obi] Reg[is]

Imprimis doe you know Thomas Stone pl[ain]t[iff], Iames Harlow, Elizabeth his wief, & Thomas Okeley and Elizabeth his wiefe def[endan]ts yea or noe Item what threatening words did the said Iames Harlowe Elizabeth his wiefe Thomas Okeley & Elizabeth his wiefe or another def[endan]ts give vnto you concerning the pl[ain]t[iff] (if yea) what were the same threatening speaches, & when soe spoken & uttered, & by which of them. Item whether were you threatened to be so vexed & troubled by the said def[endan]ts or any of them, that yow should be never able to helpe yo[u]r selfe, or be suffered to come againe into Gracious Streete, or wearyed of yo[u]r lief (if yea) for what cause did or doe the said def[endan]ts & theire wives or other def[endan]ts so threaten & malice yow declare the trwe at large.

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[f126 r.] Deposic[iones] Cap[tae] [Die] 12^o: Junij an[n]o 7^o [Reg-nis] Ja[cobi]: reg[i]s &c. [super interrogatoria] ex [par]te Thom[e] Stone Quer[entis] ministr[ata]

Iohn Savadge of the p[ar]lishe of Katheryne Breechurch neere Algate Sadler aged 43 yeares or theabouts swor[n]e &c. examyned

1 2 To the 1 2 Interr[ogatories] this depon[en]t. is not to be examyned by the direction of the Compl[ainan]t.

3 To the [3] Interr[ogatorie] this dep[on]en[t] s[a]yth that being requested by the Compl[ainan]t to see the defend[an]t Walters a[fo]resaid he this depon[en]t dyd goe w[i]th the sergeant that dyd arest him who p[er]formed the s[ai]d arest accordingly after w[hi]ch arest this depon[en]t dyd demaund of the s[ai]d defend[an]t Walters why he dyd chardge the Compl[ainan]t Stone w[i]th the robbing of him the s[ai]d defend[an]t Walters to whome the s[ai]d Walters replied that he the s[ai]d Walters had byne before the Clarck of the Counting-house where he had confessed before the s[ai]d Clarck that one man might be like an other & soe he might be mistaken & that he was sorry for the same or words to that effect adding further that he had thought that the s[ai]d cause had byn made an end before the s[ai]d Clarck that the Compl[ainan]t and he the s[ai]d Walters had byn freinds further saying that could not bydde other mens touns from speaking or talking of the s[ai]d Stone & the robbery before menc[i]oned and s[a]yth th[at] the s[ai]d defend[an]t Walters Alleidgeidg allso at the s[ai]d tyme (vppon Demaund made by this depon[en]t who should anymate him the s[ai]d Walters in saying that the Compl[ainan]t had robbed him) that the def[endan]t Wil[liam] Burt & Nicholas Kefford has willed him the s[ai]d Walters to justefye & maynteyne that w[hi]ch he the s[ai]d Walters had spoken Concerninge the s[ai]d robberye or that otherwise sombodye would smart for the same And more he s[a]yth not To the Interr[ogatorie].

4 5 6 To the 4 5 & 6 Interr[ogatories] this depon[en]t is not to be examyned by the direction of the Compl[ainan]t.

7 To the 7 Interr[ogatorie] this D[e]pon[en]t s[a]yth that he can say noe more then he hath before deposed To the 3 Interr[ogatorie].

8 9 10 11 To the 8 9 10 & 11 Interr[ogatories] this depon[en]t is not to be ex[a]myned by the direction of the Compl[ainan]t.

12 To the 1[2] Interr[ogatories] this depon[en]t s[a]yth that he knoweth that the Compl[ainan]t was by vertue of a Warrant brought before S[i]r Stephen Soame one of his Ma[jes]ties Iustices of peace for the Cittye of London where the s[ai]d Walters dyd chardge the s[ai]d Compl[ainan]t Stone w[i]th the robbing of him the s[ai]d Walters neere Ougly in Essex & that [f126 v.] the Compl[ainan]t Stone had then & there taken from him the s[ai]d Walters a hatt & Cloake and xxx^s in money whervppon the s[ai]d Compl[ainan]t Stone was bound over by the s[ai]d S[i]r Stephen Sonne to appeare at the Sessions then next Following for the s[ai]d citty of London there to ainswere the s[ai]d supposed robbery.

13 14 15 16 17 18 19 20 21 22 23 24 To the 13 14 15 16 17 18 19 20 21 22 23 & 24
Interr[ogatories] this depon[en]t is not to be examyned by the direction of the
Compl[ainan]t.

25 To the 25 Interr[ogatorie] this depon[en]t s[a]yth that he was p[re]sent
at the assises in Essex when the defend[an]t Walters dyd giue in evidence vp-
pon an Inditement openly at the bar before the whole Court & great enquest
that the s[ai]d Compl[ainan]t Stone had robbed him the s[ai]d defend[an]t
Walters neere Ougly in Essex where the s[ai]d Stone dyd take from him the
s[ai]d Walters a hatt Cloake & xxx^s in monye as afore s[ai]d And s[a]yth that
the s[ai]d Walters dyd also in the s[ai]d evidence discribe & sett downe the
cullor of the horses w[hi]ch the s[ai]d Stone & the other Comp[a]ny Charged
by the s[ai]d Walters for the s[ai]d robbery dyd at the s[ai]d tyme ryd vppon
where this depon[en]t s[a]yth that in the s[ai]d descriptyon he the s[ai]d Wal-
ters dyd vary from that discription w[hi]ch he the s[ai]d Walters had giuen &
made for the hue & cry after the s[ai]d robbery And this depon[en]t farther
s[a]yth that ther[e] weare likewise p[re]sent w[i]th the s[ai]d Walters at the
s[ai]d Assises in Essex the defend[an]ts Henry Bates & Anthonie Hacks who
went vp & downe w[i]th the s[ai]d Walters at the s[ai]d Assises During the
tyme of the s[ai]d Assises & more he cannot depose to this Interr[ogatorie].

26 27 To the 26 27 Interr[ogatories] this defen[dan]t is not to be examyned by
the direction of the Compl[ainan]t.

28 To the 28 Interr[ogatorie] this depon[en]t s[a]yth that he doth very well
knowe that the Compl[ainan]t Stone dyd about a yeare sithence in the guild
hall London Comence & p[ro]secute an action vppon the case against the s[ai]
d def[endan]t Walters for sclanderous speeches or words spoken by him the
s[ai]d Walters against the s[ai]d Compl[ainan]t.

29 To the 29 Interr[ogatorie] this defendt syth that after the s[ai]d action co-
menc[e]d by the s[ai]d Stone against the s[ai]d Walters as afores[ai]d he the
s[ai]d [Wal] Walters dyd p[ro]cure a wrytt of pryviledge out of his Ma[jes]ties
Court of Com[m]on Pleas at Westminster to remove the s[ai]d suit & action
To the s[ai]d Court of Com[m]on pleas, And that thervpon the s[ai]d Com-
pl[ainan]t Stone obteyned a p[ro]cedendo out of the s[ai]d Court And more
he cannot depose to this Interr[ogatorie].

30 To the 30 Interr[ogatorie] this depon[en]t s[a]yth that afterwards the s[ai]
d def. Walters or some other p[er]son or p[er]sons in his name dyd due forth

or p[ro]cure a Habeas Corpus from the Court of Kings Benche at Westminster for [f127 r.] the removing of the s[ai]d Cause And that the Compl[ainan]t Stone dyd the[re]vppon p[ro]cure a p[ro]cedendo But who dyd p[ro]c[ur]e or beare the Charge of takeing on or suing forth of the s[ai]d Habeas Corpus in the name of the s[ai]d Walters he this depon[en]t knoweth not.

31 To the 31 Interr[ogatorie] this depon[en]t. s[a]yth that he doth knowe that the s[ai]d defend[an]t Walters or some others in his name dyd p[ro]cure or sue forth one other Habeas Corpus out of the s[ai]d Court of kings bench for the removing of the s[ai]d Cause but whoe disbursed & payed the monye & Charge of the s[ai]d wrytt he this depon[en]t knoweth not.

32 To the 32 Interr[ogatorie] this depon[en]t s[a]yth that he knoweth that the s[ai]d Compl[ainan]t by verdict & Iudgm[en]t dyd recover Costs & damages in the s[ai]d action of the case against the s[ai]d defed[an]t Walters And more he Cannot depose to this Interr[ogatorie].

33 To the 33 Interr[ogatorie] this depon[en]t. s[a]yth that he knoweth that ther[e] was a wrytt of Error brought vppon the s[ai]d Iudgm[en]t in the name of the s[ai]d def[endan]t Walters w[hi]ch s[ai]d wrytt of error is now & hath byn by almost the space of a yeaere ben still depending in the s[ai]d Court of at guild hall London but whoe dyd beare or pay the charge of the s[ai]d wrytt of Error he this depon[en]t knoweth not.

34 To the 34 Interr[ogatorie] this depon[en]t s[a]yth that he cannot depose.
Iohn Savadge

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[f128 r.] deposic[i]ones]. Cap[tae] 13 Junij an[n]o 7^o [Regni] Jac[obi] reg[is] &c sup[er] Interr[ogatoria] ex [par]te Thom[ae] Stone Quer[entis] [ministra-ta]

Rob[er]te Gryse of Citize[n] & weaver of London aged 59 yeaeres or therabouts swo[r]ne &c.

To the 1 Interr[ogatorie] this depon[en]t sayth that he cannot depose.

2 3 4 5 6 7 8 9 10 & 11 To the 2 3 4 5 6 7 8 9 10 & 11 Interr[ogatories] this depon[en]t is not to be examyned by the direction of the Compl[ainan]t.

12 To the 12 Interr[ogatorie] this depon[en]t s[a]yth that he knoweth that the Compl[ainan]t was by vertue of a warrant brought before S[i]r Stephen

Soanne Kn[igh]t one of his Ma[jes]ties Iustices of the peace for the citty of London when the defed[an]t Walters dyd affyrme before the s[ai]d S[i]r Stephen that he the s[ai]d Compl[ainan]t had robbed him the s[ai]d Walters and had taken from him xxxs in money a hatt cloacke & the outsyde of a Womans gowne whervppon he the s[ai]d Compl[ainan]t was bound to appeare at the sessions then next Following to be held for the citty of London there to answer the s[ai]d Robbery soe Complayned of as afores[ai]d.

13 14 To the 13 & 14 Interr[ogatories] this depon[en]t is not to be examyned by the direction of the Compl[ainan]t.

[15] To the 15 Interr[ogatorie] this depon[en]t s[a]yth that the def[endan]t Bat[e]s Woodbridge Hacks w[i]th div[er]s others vnknowne by their names vnto this def[endant] weare in the company of the s[ai]d Walters to at the s[ai]d Sessions held in the old Baylie neere Newgate where they Continued w[i]th the s[ai]d Walters the most p[ar]te of the same day And weare p[re]sent w[i]th him the s[ai]d Walters at such tyme as he the s[ai]d Walters affyrme To the Court & bench then there sitting that the s[ai]d Compl[ainan]t Stone was the man that had robbed him the s[ai]d Walters neere vnto a place called Oughly in Essex And that he the s[ai]d Compl[ainan]t had on at the s[ai]d tyme a false beard and had taken from him xxxs in money a hat cloacke & outsyde of a womans gowne as afores[ai]d And more he cannot s[a]yth to this Interr[ogatorie].

16 To the 16 Interr[ogatorie] this depon[en]t s[a]yth that he was likewise p[re]sent at the assises in Essex where an Indictment was p[re]ferred by the s[ai]d Walters against the s[ai]d Compl[ainan]t Stone And s[a]yth that there was likewise p[re]sent at the s[ai]d assises w[i]th the s[ai]d Walters the s[ai]d Woodbrydge Bates & Haucks & others unknowne by their names to this deponent who stayed w[i]th the s[ai]d Walters all the assyse tyme where this def[endan]t depon[en]t dyd heare it spoken amoungst some of the s[ai]d Poulters but w[hi]ch of the[m] he c[er]tenly knoweth not that they would spend agood some of money But they would hang the s[ai]d Compl[ainan]t Stone yf the s[ai]d Walters would stand vnto that w[hi]ch he the s[ai]d Walters had alle[g]ed[l]y s[a]y[e]d & affyrmed And more he cannot s[a]yth to this Interr[ogatorie] To all the rest of the Interr[ogatorie] this depon[en]t is not to be examyned by the direction of the Compl[ainan]t.

[signed with an R]

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[f129 r.] Deposic[iones] Cap[tae] 6[^o] die Novembr[is] an[no] [Regni] 7[^o] Jac[obi] reg[is] &c sup[er] Interr[ogatoria] ex[par]te Thome Stone Quer[ren-
tis] min[i]stra[ta]

Avis Barrakey of London spinster aged 40 yeares or therabouts sw[or]ne &c.

To the 1 2 & 3 Interr[ogatorie] this depon[en]t is not examyned by the di-
rect[i]on of the Compl[ainan]t.

4 To the 4 Interr[ogatorie] this depon[en]t s[a]yth that she hath not at any
tyme heare the defen[dan]ts or any of them report or giue forth in speeches
that the defend[an]t Walters had bynne robbed & that the s[ai]d Compl[ain-
an]t was the man that had robbed him but this defend[an]t [sic] s[a]yth that
she hath heare the wife of Iames Harlowe affirme & saye that yf it weare trew
that was reported the Compl[ainan]t Stone was a gent[leman] theif or words
to that effect And farther to her remembraunce she s[a]yth she cannot depose
To the Interr[ogatorie].

18 To the 18 Interr[ogatorie] this depon[en]t s[a]yth that she doth not knowe
that the defen[dan]ts or any of them or by their meanes of p[ro]curemt have
reported that the s[ai]d Compl[ainan]t vnder Cullor to doe his Ma[jes]ti[e]s
se[r]vice dyd ryde abroad to any evill intent or purpose whatsoeu[er].

24 To the 24 Interr[ogatorie] this depon[en]t s[a]yth that she cannot depose
any thing thing To the Content of the Interr[ogatorie].

37 To the 37 Interr[ogatorie] this depon[en]t s[a]yth that sithence have
sometymes as this depon[en]t hath passed by them said vnto her this de-
pon[en]t that they would wishe her to vse her Conscience & to speake the
truthe when she should 23 com[e] to speake or to be examyned on the pl[ain]
t[iff]ffs behalfe alledging that they were [proved fully] & had spent & Layd
out a great deale of money in the s[ai]d cause but this depon[en]t s[a]yth that
neither they nor any other of the defen[dan]ts nor any other for them or in
their behalf haue giuen or p[ro]mised vnto her this depon[en]t any money
reward or any other recompence whatsoev[er] to conceale or not reveal her
knowledge in the s[ai]d cause.

38 To the 38 Interr[ogatorie] this depon[en]t s[a]yth that the examynac[i]
ons now shewd & read vnto her this depon[en]t is a trew examynac[i]on &
was taken of this depon[en]t before S[i]r Stephen Soame kn[igh]t the tounne

whereof followeth in the s[ai]d words viz The examynac[i]on of Avis Bar-
 rackey spinster Lodging at the [f129 v.] house of Iohn Loggin Laborer in the
 wrastlers yard w[hi]thin & neere Bishopsgate taken the 6 day of June 1608
 before S[i]r Stephen Soame Kn[igh]t The s[ai]d examynate being asked what
 speeches she hath lastly heard of Tho[mas] Stone poulter she s[a]yth that one
 Day this Last weeke she being at the marke at the house of one Iames Harlowe
 poulter in gracious streete she heare the s[ai]d Ieames [and] his wife talking
 at her husband touching gentlefolks and amongst other speeches passed be-
 tweene then she heard the s[ai]d Ieames [and] his wife say that the s[ai]d
 Thomas Stone was a gentleman theif & that ther[e] was a poulters man in
 the Shambles that the s[ai]d Stone had robbed, but the s[ai]d Ieames him-
 self bydding her to hold her tounge she then replied that yt was soe knowne
 abroad She also sayth that she this ex[a]mynate being at work at Okley Bak-
 ers house a poulter she dyd heare the s[ai]d Bakers wife & one of their maid
 se[r]vants vse speeches of the s[ai]d Thomas Stone that he was one of the[se]
 that had robbed a poulters man in the Shambles and further s[a]yed that the
 s[ai]d Thomas Stone was knowe to be one of the[se] that dyd the robbery by
 a scarff w[i]th he wore about his neck & face & that the s[ai]d Bakers man
 escaped robbing very hardlye at that tyme She farther s[a]yth that she told
 Elizabeth Bromly that she heard yt reported that yt was manefestly knowne
 that the s[ai]d Stone had comitted A robbery And more she doth not s[a]y
 And that she willed [illegible] vnto this her examynac[i]o[n] that yt is trew yf
 she be the[re]vnto requyred.

[signed with a mark]

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[f130 r.] deposic[i]ones] Cap[tae] 9^o die] Novembr[is] An[no] [Regni] 7^o
 Jac[obi] Reg[is] &c. sup[er] Interr[ogatoria] ex [par]te Tho[me] Stone
 quer[entis] ministr[ata]

Twigden Maysters of the p[ar]ish[e] of S[ainc]t G [document torn] in South
 Wark blacksmith aged [document torn] years or therabous sworn[e] &c.

1 To the 1 Int[e]rr[ogatorie] this depon[en]t s[a]yth that he knoweth not
 whether the defend[an]ts or any of the[m] dyd at any tyme conceiue or beare
 [any] evell will or malice vnto the s[ai]d Compl[ainan]t but s[a]yth that he
 h[ath] heard Thomas Okely one of the defend[an]ts s[a]yth that th[ere] was a
 certayne sute of Late Commenced by the s[ai]d Compl[ainan]t ag[ainst] him

the s[ai]d Okely & diu[er]s other defen[dan]ts in the Ho[norable] Court of St[a]r Chamber for that on[e] Walters and other of the def[endan]ts dyd accuse the s[ai]d Compl[ainan]t for robbing him the s[ai]d Walters vppon the kings high way w[hi]ch the s[ai]d Walters dyd still stand to Iustefye.

2 3 To the 2 3 Interr[ogatories] this dep[o]n[en]t is not examyned by direction of the Compl[ainan]t.

4 To the 4 Interr[ogatorie] this depon[en]t s[a]yth that he can s[a]y noe more To the same then he hath before deposed To the 7 Interr[ogatorie].

24 To the 24 Interr[ogatorie] this depon[en]t s[a]yth he cannot depose anything To the same save als[o] that he dyd heare the s[ai]d Okely say the s[ai]d or the like words in effect viz pray god Stone meaning the s[ai]d Compl[ainan]t haue a good pursse for the he maketh vs spend a great deale of money.

39 & 40 To the 39 & 40th Interr[ogatories] this depon[en]t s[a]yth he can s[a]y noe more then he hath before deposed.

[signed with a mark]

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[f130 v.] [deposc[i]o[n]es] Cap[tae] 11[^o] die Nov[embris] an[no] [Regni] 7[^o] Jac[obis] re[gis] &c sup[er] Interr[ogatoria] ex [par]te Stone Quer[entis] minist[rata]

Iohn Grainger of Parnedon in the County of Essex, gent[leman] aged 50 ye[a]r[e]s or thereabouts sw[or]ne &c.

41 To the 41 Interr[ogatorie] this depon[en]t s[a]yth that he knoweth the 3 def[endants] in the Interr[ogatorie] named & s[a]yth that he hath knowe them or the most of the[m] by the space of a dosen yeres & more And s[a]yth that having some Conference w[i]th the s[ai]d Clapham als[o] Calpton in the Interr[ogatorie] named concerning the s[ai]d Compl[ainan]t Stone he the s[ai]d Clapham dyd say that Rob[er]te Warden in the Interr[ogatorie] likewise named dyd tell him the s[ai]d Clapham that he the s[ai]d Warden dyd see the Compl[ainan]t Stone as he the s[ai]d Warden dyd lye in his owne wyndow Come ryding home on the backsyde of Leaden hall in the evening that and that the s[ai]d defend[an]t Walters was robed [sic] And farther he s[a]yth he cannot depose To the Interr[ogatorie].

42 To the 42 Interr[ogatorie] this defend[an]t s[a]yth that he dyd not at

any tyme heare yt rep[e]ated in Court that yt would be p[ro]ved To the s[ai]d Compl[ainan]ts face that he the s[ai]d Compl[ainan]t was the man that robbed the poulters man as is declared in the Interr[ogatorie] neither can depose anything conc[e]rning this Interr[ogatorie].

Iohn Grainger

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[f132 r.] [deposic[iones] Cap[tae] 13[º] die Nov[embris] an[no] [Regnis] 7[º] Jac[obi] reg[is] &c sup[er] Interr[ogatoria] Ex [par]te Thom[e] Stone Quer[entis] ministr[ata]

Iohn Carter of S^{te} Nicholas Olyves in Bullstreate London Ironmonger aged 50 yeares or thereabouts sw[o]rne &c.

2 To the 2 Interr[ogatorie] this depon[en]t. s[a]yth that he hathe hearde two of the defen[dan]ts namely the defend[an]t Anthony Hakes & the defend[ant] Walters affyrme & s[a]yth that about the tyme in the Interr[ogatorie] mentioned he the s[ai]d Walters dyd s[a]yth vnto the s[ai]d Hakes ryding togeather vppon the highe way yonder rydes he that robbed me poynting at [him] and meaning the Compl[ainan]t Stone And s[a]yth that he the s[ai]d Haks vppon the request of the s[ai]d Walters dyd at Enfeild vppon his ma[jes]ti[e]s high way there Leading from London to Ware stay the s[ai]d Compl[ainan]t sitting vppon his the s[ai]d Compl[ainan]ts owne horsse vppon the words that the s[ai]d Waters had before giuen out that the s[ai]d Compl[ainan]t had robbed his the s[ai]d Walters And farther he cannot depose To the Interr[ogatorie].

3 To the 3 Interr[ogatorie] depon[en]t s[a]yth that after the s[ai]d Compl[ainan]t had byn soe charged by the s[ai]d Walters for the robbing of him the s[ai]d defend[an]t Walters he this depon[en]t dyd heare the s[ai]d Walters confesse & s[a]y that he was utterly mistaken in the charging of the Compl[ainan]t w[i]th the s[ai]d robbery and was very sure for the same affirming that one man might be like to an other & farther he s[a]yth not To the Interr[ogatorie].

5 To the 5 Interr[ogatorie] this depon[en]t s[a]yth that shortly after the s[ai]d 10th day of May he this defend[an]t had a warran to bring the s[ai]d Haks before some of his ma[jes]ti[e]s offycers of the compting house for the chardging of the s[ai]d Compl[ainan]t w[i]th the s[ai]d robbery as afores[ai]d And s[a]yth that according to his s[ai]d warrant he dyd attache the s[ai]d Haks & dyd bring others before the s[ai]d officers at the tyme of whose apprehenc[i] on he the s[ai]d Haks vtteered these words seing Mr Stone hath dealt this w[i]

th Mr J[ohn] will spend[e] £ 40 in the cause & sayth that there dyd accompany the s[ai]d Haks To the s[ai]d place diu[er]s of the s[ai]d defen[dan]ts as namely the s[ai]d def[endan]t Walters Henry Steapleford and W[i]l[liam] Woodbridge at w[hi]ch tyme he the s[ai]d Walters did deny that the s[ai]d Compl[ainan]t had robbed him saying that he was mistaken therein & that one man might be like another as [illegible] And this s[a]yth that he this depon[en]t then [&] there standing by dyd s[a]y that the s[ai]d Walters would be redy the next Day being a loose Fellow as this depon[en]t thought to affirme that agayne that he had soe denyed whervppon the s[ai]d Mr Stapleford stepped forth & sayed that he the s[ai]d Mr Woodridg[e] would be bound in an hundred pownds that the s[ai]d Walters should never use any such words agayne.

[132 v.] 6 To the 6 Interr[ogatorie] this depon[en]t s[a]yth that he can s[a]y now more to this Interr[ogatorie] then he hath before sayd save only that the s[ai]d offycers of his maj[es]ti[e]s compting house dyd much rebuke & blame the s[ai]d Walters for the wrongfull accusing of thereabouts s[ai]d Compl[ainan]t as he the s[ai]d Walters then Confessed as afores[ai]d.

20 To the 20th Interr[ogatorie] this depon[en]t s[a]yth that he this depon[en]t talking w[i]th the s[ai]d defend[an]t Kefford one Boulton came vnto them & dyd there report & s[a]y before this dep[o]n[en]t & the s[ai]d Kefford that the s[ai]d Compl[ainan]t was saved by the meanes of the Lord Peeter or otherwise he the s[ai]d Stone had byn hanged or words to that effect.

32 To the 32 Interr[ogatorie] this depon[en]t s[a]yth that he doth knowe that the s[ai]d Compl[ainan]t dyd by verdict & Iudgment recover in an action vppon the case against the s[ai]d Walters & was to haue in costs & damages one hundred m[a]rks or therabouts & further he cannot depose To the Interr[ogatorie].

35 To the 35 Interr[ogatorie] this defen[dan]ts s[a]yth that he this depon[en]t dyd see the s[ai]d Compl[ainan]t Stone the s[ai]d xxiiijth Day of Aprill in the Interr[ogatorie] menc[i]oned being sonday the very Day that the s[ai]d defend[an]t Walters dyd report that he was robbed in). [sic] at his the s[ai]d compl[ainan]ts [sic] owne house at 8 of the clock in the morning the same day at w[hi]ch tyme he this depon[en]t s[a]yth that the s[ai]d Stone was neither booted nor spurred butt was redy to goe to Paulles To the sermon as he the s[ai]d Stone then affirmed vnto him this depon[en]t And s[a]yth that at the s[ai]d compl[ainan]ts tryall at Chenfford in Essex there weare diuers witness-

es that dyd then & there testefye where the s[ai]d compl[ainan]t was for all or the most p[ar]te of the s[ai]d day p[ro]ving that the s[ai]d Compl[ainan]t was ether in London or at Court attending in his place all the s[ai]d day th[a]t being the next day after the feast day of S[ain]ct George & farther he cannot depose.

41 To the 41 Interr[ogatorie] this depon[en]t s[a]yth that he knoweth Rob[er]te Clopton als[o] Clapham Rob[er]te Warden & Henry Stapleford & hath knowe them by the space of 12 yer[e]s or therabouts And s[a]yth that vpon some commcac[i]on betweene him this depon[en]t & the s[ai]d Clapham & Stapleford concerning the s[ai]d Compl[ainan]t Stone they the s[ai]d Clapham & Stapleford dy[d] say vnto this defpon[en]t that yt would be directly p[ro]ved that ther[e] was one that would be swo[r]nen that he dyd see the s[ai]d Compl[ainan]t Com[e] ryding towards Leaden Hall home to his house that evening that the s[ai]d Waters reported that he was robbed the afterward before & farther he cannot depose To the Interr[ogatorie].

by me Iohn Carter

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42 To the 42 Interr[ogatorie] this depon[en]t s[a]yth he cannot depose

[f133 r.] The examinac[i]on of Avice Barraker spinster Lodgeinge att the howse of Iohn Loggin labourer in the Wrastlers Yard wthin neare Bushoppesgate taken the vjth daye of June a[nn]o D[omi]ni 1608 before S[i]r Stephen Soame Knight

The said Examinee beinge asked what speeches she hath latelie hearde of Thomas Stone Poulter. She saieth that one daye this last weeke she beinge att Woorke att the howse of one Ieames Harlowe a Poulter in Gracioustreete she hearde the said Ieames his wyfe talkinge w[i]th her husband towchinge gentlefolks and amongst other speeches passed betwene them she hearde the said Ieames his wife saye that the said Thomas Stone was a gentleman theife and that there was a Poulters man in the Shambles that the said Stone has robbed. but the said Ieames himself biddinge her to hould her tongue she then replied that it was soe knowne abroad. She also saieth that she this ex[amina]te beinge at Woorke att Allen Bakers howse a Poulter she did there the said Bakers Wyfe and one of their maidse[r]vants use speeches of the said Thom[a]s Stone that he was one of them that had robbed a Poulters man in the Shambles and further saied that the said Thom[a]s Stone was

known to be one of them that did the robberie by a skarffe w[hi]ch he wore about his necke and face and that the said Bakers man escaped robbing verie hardlie at that tyme. She further saieth that she tould Elizabeth Bromley that she hearde it reported that it was manifestlie knowne that the said Stone had Comitted a robberie and more she doth not saye And that she wille depose vnto this her examinac[i]on that it is turne yf she be therevnto required.

The X m[ar]ke of the said Avice Barraker

Stephen Soame

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This examynac[i]on was shew vnto the depon[en]t Avis Barraky at the tyme of her examynac[i]on. R Bromfyld

[f134 r.] Tho[mas] To the right hono[ra]ble Tho[mas] Lo[rd] Ellesmere lord Chancellor of England

The most humble petic[i]on of Tho[mas] Stone Compl[ainan]t agaisnt Iames Harlo[w]e Richarde & his wife Thomas Okeley, and Elizabeth his wife def[endan]ts

The pl[ain]t[iff] made aff[ida]vit this terme that one Avis Barkey a materi- all witnes for him in this cause came vnto him on sonday the 18 of Junne last complining as by thaffidavit annexed appeares wherupon yo[u]r Lo[r-shi]pp ordered th[at] the sayd Avis should be exa[m]i[n]ed vpon Interr[og-atorie] conce[r]ning the def[endan]ts printings & threats therein specified, & thervpon the parties offending to be comitted: The said Avis Barrac[k]e hathe ben exa[m]i[n]ed accordinge to yo[u]r Lordshipps order whoe thoroughe the p[resen]tly [illegible] p[er]swac[i]ons of the def[endan]ts was verie vnwilling to be swored or examined concerninge the said speeches and yet hathe by Cyrcumstances vttered some matter tending to that purpose as appeareth by the[i]re examinac[i]ons [illegible] in regard where the petic[i]ons affidavit, stande balance with her exa[m]i[n]ac[i]on for clearing all doubts therin to vouch for the pl[ain]t[iff] may p[ro]duce wytnesses to manifest & confirme yo[u]r [illegible] sayd affidavit & affirmac[i]on in p[er]formance of yo[u]r hono[ra]ble first order taken for this p[ur]pose, & the def[endan]ts found to offend therein to stand com[mi]tted accordingly.

The humble petic[i]on of the pl[ain]t[iff] is that in regarde the said Avis Bar- rakey is seduced by the def[endan]ts from Confessing the truthe touchinge

the said abuse that yo[u]r honor wilbe pleased to geeve him leewe to examine witness to prove the contents of his said affid[avi]t and his affirmacion therein.

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* *

[f142 r.] Exam[inatio] Cap[ita] 6[^o] die Febr[uari] an[no] [Regni] 6[^o] Jac[co-
bi] reg[is] &c sup[er] Interr[ogatoria] Ad sect[am] Thome Stone Quer[enti]
ministr[atata]

Raphe Walters servant vnto Iohn Woodbridg[e] of London Poulter sworn
&c.

1 To the 1 Interr[ogatorie] this defend[an]t sayth that he never dyd nor any of the defend[an]ts to his knowledg[e] ever dyd beare any evill will malice or hatred To the now Compl[ainan]t And farther Cannot say to this Interr[ogatorie].

2 To the 2 Interr[ogatorie] this defend[an]t sayth that nether he nor any of the defend[an]ts to his knowledge dyd at any tyme Consult or advise to harme the now Compl[ainan]t in estate goods or bodye.

3 To the 3 Interr[ogatorie] this defend[an]t sayth that nether he nor any of the defend[an]ts to his knowledg dyd at any tyme Conclud[e] & agree to watche the now Compl[ainan]t when he should ryde into the Country.

4 To the 4 Interr[ogatorie] this defend[an]t sayth that the 3 p[er]sons that robbed him this defend[an]t has the one of them a sorrell horse or nag w[i]th a red saddle an the other had a bay horsse w[i]th a black mayne black tayle & a rede bridle & the 3^d had a browne black nag and had a black saddle: the first of w[hi]ch 3 that roade vppon the sorell horsse had a sor[e]d greenish Ierkin layd on w[i]th lace & buttons on the skirts & a paire of bases sutable To the same, the seacond man that roade vppon the bay horsse w[i]th the red saddle had a greene Ierkin layd on w[i]th 2 laces together & a black brownish fustian sute the 3 man was a taller man then the other twayne and had a Fustian strawe Coloured playne sute w[i]thout bootes And he sayth that after these 3 p[er]sons had robbed him he made hue & Cry after them And dyd giue Direction To the offycers (by whome the s[ai]d hue & Cry was made) of the Cullor of the horssees of such p[er]sons as robbed him.

5 To the 5 Interr[ogatorie] this defend[an]t sayth that the s[ai]d p[er]sons w[hi]ch robbed him had noe vizards vppon their faces only 2 of them that

is to say he that roade vppon the sorrell horsse w[i]th a red saddle & he that roade vppon the bay nag w[i]th a red saddle had eache of them a false beard or visard the other had none but his owne being a little red beard as aforesaid And he sayth that he knewe the Compl[ainan]t Stone to be the man w[hi]ch had robbed him both by the garmenth w[hi]ch he then wore & some white heares in his b[ear]d & the horsse the he roade vppon: only the saddle of the s[ai]d horsse was chainged.

[f142 v.] 6 To the 6 Interr[ogatorie] this defend[an]t sayth that about the tyme in this Interr[ogatorie] menc[i]oned he this defend[an]t togeather w[i]th the other 2 defend[an]ts in this Interr[ogatorie] named dyd on the highe waye in the towne of Enfeild in this Interr[ogatorie] likewise menc[i]oned alight from off their horses and dyd stay the Compl[ainan]t sitting on his horseback requyring him to stand but sayth that they had not any of them any weapons about then at the s[ai]d tyme And he farther s[a]yth that the Compl[ainan]t dyd then ryde in his Ierkin & bases w[i]thout any Cloake about him having a sorrell horsse or gelding as afores[ai]d w[hi]ch horse this defend[an]t s[a]yth was one of the horsses before described to be one of the s[ai]d horses w[hi]ch, one of the 3 p[er]sons before menc[i]oned dyd ryde vppon when they rolled him this defend[an]t.

7 To the 7 Interr[ogatorie] this defend[an]t sayth that before the staying of the Compl[ainan]t in the said highe way as aforesaid he this defend[an]t & the other 2 defend[an]ts in this Interr[ogatorie] named dyd overtake the said Compl[ainan]t then ryding twoards Enfeild And he sayth that bothe he and the s[ai]d Anthony Hakes & Symon Ioy dyd well observe & marke the Compl[ainan]t so ryding as afores[ai]d And farther sayth that he & the s[ai]d Hakes & Ioye did ryde along by the Compl[ainan]t & did vewe him as they pass along And dyd agayne slack their pace of purpose that this defend[an]t might marke well and view the s[ai]d Compl[ainan]t.

8 To the 8 Interr[ogatorie] this defend[an]t sayth that after such view and observac[i]on had & made by him & the s[ai]d defend[an]ts Hakes & Ioye of the s[ai]d Compl[ainan]t he this defend[an]t entreated the s[ai]d Hakes to ryde before To the s[ai]d towne of Enfeild And there to make knowe that the Compl[ainan]t was one of them that had robbed him And that ther[e] by the s[ai]d Compl[ainan]t might by the ayde of the s[ai]d towne be stayed thefore And he sayth that the s[ai]d Hakes dyd accordingly ryde into the s[ai]d towne of Enfeild & dyd require ayde for the appr[e] henc[i]on of the Compl[ainan]

t And that the Compl[ainan]t was thervpon stayed & in the s[ai]d highe waye dyvers people of the said towne Coming forth one w[i]th a spitt & an other w[i]th a fork but what other weapons they had or what their names weare that weare so assembled together in the s[ai]d place where the s[ai]d Compl[ainan]t was soe stayed he this defend[an]t knoweth not.

9 To the 9 Interr[ogatorie] this defend[an]t sayth that he dyd not say vppon the staying & app[re]hencon of the s[ai]d Compl[ainan]t as afores[ai]d before the s[ai]d Compl[ainan]t then gathered togeather, that yt was but a mistaking, but sayth that the defend[an]t haks [sic] affirmed as much, willing this defend[an]t to lett him pas saying that he might have him meaning the Compl[ainan]t any day at home: And that therevppon [f143 r.] he this defend[an]ts [sic] & the other defend[an]ts Haks & Ioye dyd suffer the Compl[ainan]t to ryd on his way agayne w[i]thout any farther accu sation of him at that tyme And sayth that the reason whye he dyd lett him goe at the s[ai]d tyme was for that he was p[er]swaded that he might have him at home when he this defend[an]t should returne from his markett whether he was at the s[ai]d tyme going.

10 To the 10 Interr[ogatorie] this defend[an]t sayth that shortly after he this defend[an]t was Convented before S[i]r Marmaduke Dorell Kn[igh]t one of the Clareks of the greencloth & others the offycers of his Ma[jes]ti[e]s houshold touching the staying of the s[ai]d Compl[ainan]t in manner & forme aforesaid, and for giuing out that the s[ai]d Compl[ainan]t had robbed him, he dyd not acknowledge before the s[ai]d offycers that he had donn the Compl[ainan]t wrong therein, nether doth remember that he should say at the s[ai]d tyme that he was sory [sic] for ytt but sayth that he might p[er]adventure say that one man was like another & yet dyd p[er]swade him self that the Compl[ainan]t was one of the[ise] that had robbed him as afores[ai]d And he farther sayth that he doth not remember that any of the s[ai]d offycers dyd saye and or affyrme that he this defend[an]t dyd deserve to be bound to his good behavior, but he doth remember that Mr henry [sic] Stapleford was p[re]sent at such his Convenc[i]on as afores[ai]d but whether the s[ai]d S[e]rgeant Clapham & R[o]b[er]te Warden weare p[re]sent at the s[ai]d tyme or noe, he this defend[an]t Cannot sayth for that he saythe he knowethe them not.

11 To the 11 Interr[ogatorie] this defend[an]t sayth that he doth remember that the defend[an]t Mr Stapleford vppon a moc[i]on made by the Compl[ain-

an]t for the bynding of this defend[an]t to his good abearing dyd affyrme & say[th] that he this defend[an]t was an honest man & that he would be bound for his good behavior or words to that effect. And he farther sayth that he hath knowe the defend[an]t Stapleford by the space of 3 yeares and vpwards, And that he grew acquaynted w[i]th him by reason that he is was & is the vnkle to this defendth M[aiste]r whome he now serveth.

12 To the 12 Interr[ogatorie] this defend[an]t sayth that after such his Convenc[ion as afores[ai]d before the s[ai]d Greencloth he this defend[an]t dyd Confydently affyrme that the Compl[ainan]t was one of the s[ai]d men that had so robbed him as [144 a] afores[ai]d And sayth that the s[ai]d Compl[ainan]t thervvpon dyd bring his action of the Case agaynst him this defend[an]t in the Guild Hall London for such his speeches And that he this def[endant] did thervnto pleade in the defence of the s[ai]d action not guilty.

13 To the 13 Interr[ogatorie] this defend[an]t sayth that the reason why he dyd not Iustefye the s[ai]d words agaynst the Compl[ainan]t in his pleading To the s[ai]d action was, for that the Compl[ainan]t had byn acquytted before that tyme by the Great Inquest whoe found his Indictment to be an Ignoramus And he farther sayth that he himself dyd beare & pay all the Chardges in the defence of the s[ai]d action & the p[ro]ceeding thervvpon but dyd not lay out any of monyes for the said w[i]th his owne hands but sayth that his M[aiste]r Henry Bates dyd lay downe the sume to Mr Keale his attorney in the s[ai]d Cause & to others that followed the s[ai]d buissines whose names this defen[dan]t doth not now remember neither doth knowe to what sum the Charges therof doth amount vnto for that he this def[endant] hath not yett reckoned w[i]th his s[ai]d M[aiste]r.

14 To the 14 Inter this defend[an]t sayth that he dyd not receaue any mony himself to disburse or lay out in and about the s[ai]d action but sayth that his s[ai]d M[aiste]r H. Bates having £ xx in his hands w[hi]ch th[e]is defendants father gave vnto him this defend[an]t for a Childs p[ar]te dyd lay out & disburse the Chardges of the same sute w[i]thout any other security from this defend[an]t for the repaym[en]t thereof. And farther sayth that none of the other defend[an]ts dyd disburse or lay forth any sume or sumes of mony in or about the defence of the s[ai]d action of the Case or the p[ro]ceedings thervvpon, And farther sayth that ther was not any that followed his buissiness & p[ro]ceedings in the defense of the s[ai]d action in his absence save but the s[ai]d Mr Keale.

15 To the 15 Interr[ogatorie] this defend[an]t sayth that all such sums of mony as weare disbursed by & layed forthe by the defend[an]t Henry Bates in or about the defence of the s[ai]d action weare so layed out & disbursed by at the request of this defend[an]t who dyd p[ro]mise to repy the sume by deduction out of the £ xx before menc[i]oned to be in the hand & of the s[ai]d defend[an]t Bates. And more he Cannot say to this Interr[ogatorie].

16 To the 16 Inter this defend[an]t sayth that the defend[an]t Henry Bates dyd tell this defend[an]t that his Counsell dyd advise him to to [sic] p[ro]cure a wrytt of previledge to remove the s[ai]d action of the case so brought against this defend[an]t by the Compl[ainan]t into his Ma[jes]ties Court of Com[m]on pleas And sayth that the s[ai]d Henry Bates dyd lay out for this defend[an]t the charges of the s[ai]d wrytt. but what he the s[ai]d Bates dyd pay or lay out for the same or to whome he this defend[an]t knoweth not.

[f144 r.]17 To the 17 Interr[ogatorie] this defend[an]t sayth that his s[ai]d Attorney mr [sic] Keale dyd tell him that his Counsell would have him to p[ro]cure 2 sev[er]all wrytts of Habeas Corpus out of the Kings Bench, for the removing of the s[ai]d Cause And sayth that thervvpon his s[ai]d Attorney mr Keale p[ro]cured the same And sayth that his s[ai]d m[aiste]r dyd disburse & pay the Fees therof but how much money or to whome the said Fees for the said wrytts was [sic] soe paid he this defend[an]t knoweth not And he farther sayth that the s[ai]d mr Keale was his solicitor & dyd follow the s[ai]d action of the s[ai]d 2 wrytts in his absence & none ells[e] to this defend[an]ts knowledge And he likewyse farther sayth that ther[e] was not any of the defend[an]ts that dyd accompany him this defend[an]t when he travelled or went about the s[ai]d buissiness nether was he tould or Incouradged by any of the defend[an]ts or any of them that he should suffyciently defend the said action so brought by the said Compl[ainan]t Stone agaynst him.

18 To the 18 Inter[rogatorie] this defend[an]t sayth that after the s[ai]d action of the case so brought as afores[ai]d he this defend[an]t meeting w[i]th the defend[an]t Allen Baker & one other vnknowne to this defend[an]t not, far from the house of S[i]r Thomas Bennett Knyght on of his Ma[jes]ties Iustices of the peace for the County of Mid[d]l[esex] dyd all 3 goe together into the house of the s[ai]d S[i]r Thomas Bennett where he this defend[an]t p[ro]cured a Warrant for the ap p[re]henc[i]on of the s[ai]d Compl[ainan]t And he sayth that he had also p[ro]cured before that tyme one other warrant from the s[ai]d S[i]r Thomas w[hi]ch was never served. one Thomas Bennett a taylor

being then in Company of this defend[an]t and sayth that he was p[re]sent at the p[ro]curing of both the s[ai]d warrant & dyd the same by his owne advise & at his owne Costs & Chardges none ells[e] being p[re]sent at the p[ro]curing of the sayde 2 sev[er]all warrants save only the 3 p[er]sons before mentioned.

19 To the 19 Inter[rogatorie] this defend[an]t sayth that the Compl[ain-
an]t by force of the s[ai]d last warraunt so p[ro]cured from the s[ai]d S[i]r
Thomas Bennet was app[re]hended & brought before S[i]r Stephen Soames
knight And sayth that he this defend[an]t was p[re]sent at the same tyme &
dyd there & then Chardge the s[ai]d Compl[ainan]t w[i]th flatt felony And
father sayth that the defend[an]ts H. Bates did Com[e] in Company of this
defend[an]t vnto the s[ai]d S[i]r Stephen Soames his house & that 2 other of
the defend[an]ts nameth Allen Baker & Iohn Woodbridge dyd [145 a]Com[e]
in p[re]sently after And sayth that the Compl[ainan]t was at the said tyme
bound over by the s[ai]d S[i]r Stephen To the next session at Newgate to an-
swere the s[ai]d Felony soe layd vnto his Chardge by this defend[an]t.

20 To the 20 Interr[ogatorie] this defend[an]t sayth that he was p[re]sent
at the s[ai]d sessions at Newgate to accuse the s[ai]d Compl[ainan]t w[i]th
the felony afores[ai]d but sayth that none of the defend[an]ts that dyd goe
in Company of this defend[an]t To the s[ai]d sessions but sayth that Iohn
Woodbrydge Allen Baker Henry Chappleford Anthony Hakes & Simon Ioye &
Henry Bates weare p[re]sent at the s[ai]d sessions but how many were [sic]
of the defend[an]ts we[re] there then likewise p[re]sent he this defend[an]t
knoweth not And he farther sayth that the defend[an]t H. Bates Iohn Wood-
bridge & Anthony Haks And som[e] others whome this defend[an]t doth not
now remember Inmediately after the rysing of the bench at the s[ai]d sessions
or while they were in sitting vppon the s[ai]d bench dyd goe togeather into A
Taverne Called the 3 towns in Newgate markett but sayth that ther[e] was not
any speeche there vsed to this defend[an]ts knowledge concerning the Com-
pl[ainan]t And sayth that they went into the s[ai]d taverne to drink & to none
other purpose to his defend[an]ts knowledge.

21 To the 21 Inter this defend[an]t sayth that the evidence in this Interr[og-
atorie] menc[i]oned w[hi]ch he this defend[an]t gave at the s[ai]d sessions
against the Compl[ainan]t wa[s] soe gyven before the going in of this de-
fend[an]t & the Company before named into the s[ai]d taverne And farther
saith that trew yt is that he this defend[an]t did at the s[ai]d sessions accuse &
Chardge the Compl[ainan]t vppon his Corporall oathe before his Ma[jes]ties

Iustices there p[re]sent that the Compl[ainan]t was one of the 3 w[hi]ch had robbed him And that thervpon the s[ai]d Compl[ainan]t was bound over To the next assises to be holden for the County of Essex to answer the same.

22 To the 22 Interr[ogatorie] this defend[an]t sayth that at the tyme in this Interr[ogatorie] menc[i]oned he this defend[an]t dyd at the Assyses them holden for the County of Essex p[re]fer a bill of Indytement To the Great Inquest agayst the s[ai]d Compl[ainan]t And sayth that by the appoyntment & direction of his Ma[jes]ties then Iustices of Assise for the said County he this defend[an]t dyd giue in his evidence openly at the bar And Dyd then & there affyrme vpon his oath before the s[ai]d Iustice & the Great Inquest that the Compl[ainan]t w[i]th [f145 r.] others dyd rob him vpon his Ma[jes]ties highe way & dyd take from him xxxs in mony & dyvers other thing or To the like effect And sayth that the substance of his s[ai]d or the soe taken as afores[ai]d was, to declare the truth and the whole truth & nothing but the truth soe help him god And he farther sayth that after such his evi dence giuen as afores[ai]d the s[ai]d Great Inquest dyd then & there fynd vpon the s[ai]d bill of Indictment Ignoramus.

23 To the 23 Interr[ogatorie] this defend[an]t sayth that he himself dyd beare & pay the Chardges of his ryding to & from the s[ai]d assayses & allso during his abode there And dyd likewise pay for the making of the s[ai]d bill of Indictment vnto one of the Clercks at the s[ai]d Assises but what his name was he this def[endant]. knoweth not And he farther sayth that the defend[an]ts Iohn Wooldbrydge Allen Baker Anthony Hakes H. Bates & Leake dyd ryde in Company togeather w[i]th this defend[an]t vnto the s[ai]d Assises in Essex & that the def[endant] Iohn Rayment dyd Com[e] afterwards vnto the s[ai]d assises And sayth that the defend[an]ts Woodbridge Bates & Allen D & Hakes dyd goe as wittnesses for the defend[an]t to Iustefye what they knewe or had hard in Concerning the s[ai]d evidence And allso to bring in this defend[an]t for whome they or some of them weare bound for his appar[a]nce but sayth that he doeth not remember that any of the s[ai]d defend[an]ts dyd say vnto him these words or the like in effect[e] viz that yf he this defend[an]t would sweare directly that the Compl[ainan]t was one of them that had robbed him, that then the Iury Could not but fynd the Compl[ainan]t guilty nether Can say anything more to this Interr[ogatorie].

24 To the 24 Interr[ogatorie] this defend[an]t sayth that he doth remember that after the p[ro]ferring of the s[ai]d bill of Inditement To the Great Inquest

as afores[ai]d the said Iustices of Assise or one of them, asking this defend[an]t what the s[ai]d Hakes & the rest of the neighbors of the Compl[ainan]t wear w[hi]ch wear p[ro]duced by this defend[an]t as wyttnesses afore s[ai]d weare the s[ai]d Iustice of Assise or of one of them replied agayne saying then that he had many good neighbors for they would doe as yf they wouldst doe that is hang Stone yf e they could but sayth he doth not knowe that the s[ai]d Iustices or any of then did dislike or reporte any of the defend[an]ts then p[re]sent touching their animating & abetting of this defend[an]t to p[ro]secute agay[n]st the Compl[ainan]t the said supposed felonye And more he Cannot say to this Interr[ogatorie].

[f145 v.] 25 To the 25 Interr[ogatorie] this defend[an]t sayth he dyd nev[er] absent himself at any tyme or tymes sithence the s[ai]d Assises or kept himself out of the way from the place of his vsuall aboade except at such tymes & places where he was Employed about the assayzes of his s[ai]d M[aiste]r And sayth that he was som[e] month or 5 weeks or therabouts at Hammersmiths where his s[ai]d M[aiste]r hath a howse & afterwards he dyd gett leaue of his s[ai]d M[aiste]r to goe vnto Cambridge & other plaes therabouts to see his freunds And sayth that after he was gon[e] from hammer smithe where he was employed about his maisters buissines he dyd beare this Chardge him self but before his Chardges was [sic] bearen by his s[ai]d M[aiste]r.

26 To the 26 Interr[ogatorie] this defend[an]t sayth that sithence the tyme of his suit accusing of the s[ai]d Compl[ainan]t he hath not receaved any wayes or other meanes of Lyving or mayntenace from any of the defend[an]ts save only meate drink & apparell of his M[aiste]r to whome he is an apprentice And more then he hath before deposed can[not] he depose to this Interr[ogatorie].

Raphe Walters

*
* *

[f146 r.] [illegible] 1608 RB.

Interrogatories to be ministred for the Examynac[i]on of Ralfe Walters one of the def[endan]ts att the suyte of Thomas Stone Compl[ainan]te

[1] Imprimis did yow or any of the def[endan]ts to yo[w]r knowledge beare any evyll wyll malyce, or hatred toward [document torn] expresse the certentye thereof and for what cause, and how longe yow or anie of the def[endan]ts to yo[w]r knowledge hath [document torn] did yow or any of the def[endan]ts

to yo[w]r knowledge consult or advyse to harme the now Compl[ainan]t in estate goods or body [document torn] declare when where and in what man[n[er]], and the wh[o]le truth therof.

[2] Item did yow or any of the def[endan]ts to yo[w]r knowledge att any tyme conclude & agree to watch the now Compl[ainan]t when he should ryde unto [the] Country (yf yea) expresse the tyme when and the certantye therof.

[3] Item what horses and apparell had [the perso]ns w[hi]ch lately robbed yow how many were the sayd p[er]sons in number & what Color [we]re their said Horses, and whether did [yow made] Hue & Crye after the p[er]sons w[hi]ch so robbed yow and whether yow gyve dy[re]c[i]on the offyces by whome the said Hue and Crye was made of the Color of the horses of the p[er]sons w[hi]ch robbed yow.

[4] Item whether had the p[er]sons w[hi]ch robbed yow vizards before their faces and Counterfett bearde yea or noe, And how and by [w]hat did yow knowe the Compl[ainan]t to be one of the sayd p[er]sons w[hi]ch so robbed yow.

[5] Item whether dyd yow together w[i]th Anthony Hakes and Symon Ioye in or about the xth day of May last past assault or [hi]tt vpon the Compl[ainan]t in the High way neere Enfilde, And whether did yow together w[i]th the said Hakes, & Ioye then and ther[e] alight from yo[w]r horsess and stayed the Compl[ainan]te: Requyringe him to stand & bendinge yo[w]r weapons towards him what weapons had yow a[nd] the said Hakes & Ioye then about yow And whether did the said Compl[ainan]t then ryde in his Ierkyn & Hose w[i]thout a Cloke and what was [the] Color of the Compl[ainan]ts horse wheron he then Rodde and whether was the same horse in place when yow were Robbed.

[6] Item whether before such yo[w]r assault & stay of the said Compl[ainan]t in his Ma[jes]t[ie]s high way as aforesayd Did yow and the sayd Hawkes and [Jo]ye overtake the sayd Compl[ainan]t then Ryding towarde Enfilde and did yow together w[i]th the said Hakes and Ioye well observe and [s]lacke the sayd Compl[ainan]t so ryding vpon the Highe Way and did yow and the sayd Hakes & Ioye suddenly gallop by the sayd Compl[ainan]t and after did slake yo[w]r pace againe of purpose to veiwe & observe the said Compl[ainan]te.

7 Item whether after such veiwe and ob[servaci]on by yow and the sayd Hanke & Ioye had of the sayd Compl[ainan]t did yow together [w]ith the said

Hanke and Ioye or either of them ryde to Enfyld and there gave out that the Compl[ainan]t was one of them that had [r]obbed yow and did yow and, they there requyre ayd soe the Compl[ainan]t apprehenc[i]on, And was the Compl[ainan]t thervpon apprehended and stayed in the heighe way how many p[er]sons were then present as yow conceave or remember & what are their names and [ho]w were they seuerally weaponed.

[8] Item whether vpon such the Compl[ainan]ts apprehenc[i]on and staye as aforesaid did yow and the said Hawke & Ioye acknowledge [to] the p[er]sons that then happened to be present that it was but a mistakinge and did yow together w[i]th the said Hawkes and Ioye thervpon suffer the Compl[ainan]te to ryde on his way agayne w[i]thout any further accusacc[i]on of him at that tyme, And [wh]at moved yow so to doe yf the Compl[ainan]t were one of them w[hi]ch robbed yow.

[9] Item whether were yow shortly after convented before S[i]r Marmaduke Correll knight one of the Clarkes of the greene cloth & others the offycers of his Ma[jes]t[ie]s Howshold touching such yo[w]r misdemenon[u]r in assaulting the Compl[ainan]t in his Ma[jes]t[ie]s Heighe way & yo[w]r geeving out that the Compl[ainan]t had robbed you, And whether did yow then and there acknowledge before the said offycers that yow had done the Compl[ainan]t wronge therin And that yow were very sorry for yt affyrming that one might be lyke an other [or words] To the lyke effect, And whether did the sayd offycers or any of them then affyrme that you deserved to be bound to yo[w]r good behavior And did [wi]thall intreat the Compl[ainan]t vpon such yo[w]r submission to forbear to p[re]sente against yow or To the lyke effect, And whether were the defen[dan]ts Mr S[e]rieant Clapham, and Henry Stapleford & Robert Warden or any of them p[re]sent att the tyme of such yo[w]r submission [&] examynac[i]on of the said cause.

[10] Item whether vpon such yo[w]r Convenc[i]on before the offycers of his Ma[jes]t[ie]s howshold did the def[endan]t s Mr S[e]rieant Clapham Henry Stapleford Robert Warden or any of them & there affyrme that you were an honest man and that they had longe knowe yow and did [the]y or any of them then & there offer to be bounde for yo[w]r good behavior, and how longe before had yow bine knownen or aquaynted to [wi]th the said Clapham Stapleford & Warden or any of them & how grewe yo[w]r first acquayntance w[i]th them or and of them.

[11] Item whether after such yo[w]r submission before the offycers of his

Ma[jes]t[ie]s Howshold as aforesaid did yow or any other of the def[endan]t s gyve [o]ut in speeches that the Compl[ainan]t was the man that had robbed yow or the lyke effect and whether did the Compl[ainan]t thervpon bringe an Acc[i]on of the Case against yow in the Guyld Hall in the Cytte of London for such yo[w]r slaunderous words, and what did yow plead in defence of the sayd Acc[i]on.

13 [sic] Item wherfore did yow not vpon the said Acc[i]on of the Case brought by the said Compl[ainan]t iustifie the speaking of the sayd slaunderous words against the Compl[ainan]t yf yt had bine true that the said Compl[ainan]t had robbed yow as yow had reported, who did beare the charge in defence of the said Acc[i]on & the p[ro]ceedinge thervpon, And what money did yow by yo[w]r owne hands disburse & lay out therabouts & to whome & what doth the whole charge so by yow disbursed & layed forth amount vnto & yow conceave or Remember.

14 Item of whome did yow borrowe or receaue the money so by yow disbursed and layed forth as aforesaid and how did yow secure the Repaym[en]t thereof, and what have yow of yo[w]rself to repay the same, And whether did any other of the def[endan]ts disburse or lay forth any some or somes of money in or aboute the defence of the said Acc[i]on of the Case and the p[ro]ceedings thervpon, vpon yo[w]r p[ro]myse of Repaym[en]t therof agayne or otherwise, And who did sollicite & followe the same busynes when you were absent.

15 Item whether were such seuerall somes of money as were disbursed or layed forth by the def[endan]t Henry Bates or any other of the def[endan]ts in or aboute the defence of the said Acc[i]on of the Case & the p[ro]ceedings thervpon so by him or them disbursed of his or their owne accorde, or whether att yo[w]r Request & vpon yo[w]r p[ro]myse to repay the same when yow should be Able Declare the truth concerning the premysse.

16 Item whether after the Compl[ainan]t had brought his Acc[i]on of the Case against yow as aforesayd did yow p[ro]cure any wrytt of Pryviledge out of his Ma[jes]t[ie]s Courte of Comon Pleas for removing of the said Cause, who did advyse yow so to doe, & who did beare the charge of the saide wrytt and what did yow pay or disburse for the same and to whome.

17 Item whether did yow or any other of the def[endan]t s afterwards p[ro]cure two seuerall wrytts of Habeas Corpus out of the kings bench for removing of the said cause, by whome were the same so p[ro]cured, and who did

disburse and pay the Fees and what yow disburse & pay therabouts & whome, and who did sollicyte and followe the p[ro]secuc[i]on of the said wrytte in yo[w]r absence And w[hi]ch of the def[endan]t s did accompany yow when yow traveled about the same busynes, And whether were yow told or incouraged by the said def[endan]t s, or any of them that yow should suffyciently defend the said Acc[i]on, And what are the names of the sayd def[endan]t s by whome yow were so told or incouraged.

18 Item whether after the Compl[ainan]t had brought his Acc[i]on [illegible] of the Case against yow as aforesayd was any warrant p[ro]cured from S[i]r Thomas Bennett knight one of his Ma[jes]t[ie]s Iustice of the peace for apprehenc[i]on of the said Compl[ainan]t, who p[ro]cured the said warrant, and how many warrants were so p[ro]cured & by whome, and whether were yow present att the p[ro]curing therof And who besyde yo[w]rself were att the p[ro]curing therof, And by whose advyse & dyrece[i]on were the same p[ro]cured, And who payed the fees therof.

19 Item whether was the Compl[ainan]t byforce of the sayd warrant or warrants apprehended & brought before S[i]r Stephen Somes knight and whether did yow then and there come in place before the said S[i]r Stephen Somes, and did charge the said Compl[ainan]t w[i]th flatt felony w[hi]ch of the def[endan]t s were then present w[i]th yow and who did accompany yow To the said S[i]r Stephen Somes, And whether was the Compl[ainan]t therevpon bound over by the sayd S[i]r Stephen Somes To the next Sessions att Newgate to answeere the same.

20 Item whether did yow att the next sessions Holden att Newgate come in place To the said Sessions to accuse the said Compl[ainan]t w[i]th felony how many of the def[endan]ts were then & there presente w[i]th you or did accompany yow To the said Sessions and what are their names And whether ymediatly before and after the said sessions did yow & dyuers other of the def[endan]t s meete or come together at the Taverne called the three tunnes in Newgate Markett, and did yow and they then & there consult & discourse touching yo[w]r p[ro]ceedings against the Compl[ainan]t what are the def[endan]t s names w[hi]ch were then & there present w[i]th yow and by whome were they intreated or p[ro]cured thither and for what purpose came they or anie of them in place.

21 Item whether after conference & speeche had betweene yow and anie other of the defe[ndan]ts att the said Taverne did yow ymediatly afterwards

Come in place To the said Sessions and did then & there accuse & charge the Compl[ainan]t vpon yo[w]r Corporall othe before his Ma[jes]t[ie]s Iustice then present that the Compl[ainan]t was one the three p[er]sons w[hi]ch robbed yow And was the Compl[ainan]t thervpon bound over To the next Assizes holden for the Countye of Essex to answeere the same.

22 Item whether did yow att the Assizes for the Countye of Essex in or about the fowerth day of July last past exhibite a bill of Indycmt To the great inquest there against the said Compl[ainan]t And whether by the appoyntment & dyrecc[i]on of his Ma[jes]t[ie]s then Iustice of Assize for the said County where yow to gyve yo[w]r evydence openly att the barr And whether did yow then & there vpon yo[w]r Corporall othe affirme & gyve in evydence To the great inquest before his Ma[jes]t[ie]s and Iustice of Assize then p[re]sent that the Compl[ainan]t w[i]th others did robbe yow vpon his Ma[jes]t[ie]s Heigh way and did take from yow thirte shillings in money & diu[er]s other things or To the lyke effect Declare the substance & effect of such yo[w]r othe, And whether did the said great inquest after such yo[w]r evydence gyven then & ther fynd vpon the said bill of indycmt Ignoramus.

23 Item who did beare yo[w]r charge in Ryding to & from the said Assizes & during yo[w]r Abode there and who did pay for the makinge of the said bill of indycmt and what was gyven for making therof to whome And how many of the def[endan]t s did accompany yow To the sayd Assizes or did resort vnto yow or accompany yow in the tyme of yo[w]r Abode there Declare what are their names and what other busynes they or any of them had there more then to accompany yow & assist yow in yo[w]r p[ro]secuc[i]on against the said Compl[ainan]t And whether did the def[endan]ts or any of them affirme & say vnto yow before yow have yo[w]r Evidence vpon the said bill of Indycmt[en]t that yf yow did dyrectly depose that the Compl[ainan]t was one of them that Robbed yow that the Iury could not but fynd the Compl[ainan]t Guyltie or To the lyke effect, w[hi]ch & how many of the def[endan]ts did so affirme & say vnto yow.

24 Item whether after the preferring of the said Bill of Indictm[en]t To the great inquest as aforesayd did the then Iustic[e]s of Assize or eyther of them reprove or dilyke w[i]th any of the now def[endan]ts then p[re]sent touching their animating & abetting of yow to prosecute against the said Compl[ainan]t for the said supposed felony, what are the names of the said def[endan]ts and what are the speeches w[hi]ch the said Iustices of Assizes Did then vse To them or yow therabouts.

25 Item whether have yow att any tyme or tymes sythence the said Assizes absented yo[w]rself or kept out of the way from the place of yo[w]r vsuall abode in what place or places for what purpose & by whose dyrecc[i]on have yow so absented yo[w]rself And who did beare the charge of yo[w]r dyett during the tyme of such yo[w]r absence.

26 Item what wages of other meanes of lyvinge or mayntenance have yow receaued from the def[endan]t s Henry Bates or Iohn Woodbridge or any other of the def[endan]ts sythence the tyme of yo[w]r first accusac[i]on of the Compl[ainan]t touching the supposed felony and what meanes of lyving have yow sythence that tyme had of yo[w]rselfe to mayntaine yo[w]rselfe & p[ro] secute the saide supposed felony against the Compl[ainan]t & to defend the Compl[ainan]t's p[ro]ceedings against yow in the said Acc[i]on of the Case for slaundorous words And by whome have yo[w]r want of meanes in that behalfe byne supplied: Declare the truth vpon yo[w]r othe.

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[f147 r.] Exami[natio] Cap[ita] [Die] 13[^o] dec[embris] an[no] [Regni] 6[^o] Ja[cobi] reg[is] &c sup[er] Interr[ogatoria] Ad sect[am] Thome Stone quer[entis] ministr[ata]

Elizabeth Harlowe wyffe of Joanes Harlowe Cooke of London Coke sworn &c.

1 To the 1 Int[errogatorie] this defend[an]t sayth that she neid[er] dyd nor any of the defend[an]ts to her knowledge ever dyd beare or owe any evell will malice or hatred towards the Compl[ainan]t Tho[mas] Stone.

2 To the 2 Int[errogatorie] this defend[an]t sayth that neither she nor any of the defend[an]ts to her knowledge dyd at any tyme Consult or Advise to harme the now Compl[ainan]t either on his estate body or goods as is supposed in this Int[errogatorie].

3 To the 3 Int[errogatorie] this defend[an]t sayth that she did not nor any of the defend[an]ts To the knowledge ever dyd at any tyme Conclude or agreee to watche the s[ai]d Compl[ainan]t when he should ryde abroad into the Cuntry as is supposed.

8 To the 8 Int[errogatorie] this defend[an]t sayth that she neu[er] dyd nor any of the defend[an]ts to her knowledge ever dyd Consult or agree to make report that the s[ai]d Walters had byn robbed or that the Compl[ainan]t

vnder Cullor to doe the kings servi[c]e dyd use to ryde abroad to take purses as in this Interr[ogatorie] [is] supposed but this defend[an]t sayth that she must needs Confes that to a wash woman she had at work in her house she dyd once say that yf it weare trewe that was reported abroad Mr the said Compl[ainan]t Stone was a gent[leman] theif And more to this Int[errogatorie] she cannot depose.

[9 10 11 12 13 14 15 and 16] To the 9 10 11 12 13 14 15 and 16 Int[errogatories] this defend[an]t sayth that she cannot depose And to all the rest of the Int[errogatories] she is not to answere by the direction of the Compl[ainan]t.

[signed with a mark]

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[f149 r.] [Ex[a]mi[na]c[i]on] Capt[a] [Die] 13[^o] dec[embris] an[no] [Regnis] 6[^o] Ja[cobi] reg[is] Ang[lie] Fr[ancie] et Hib[er]nie et Sc[otie] 42[^o] sup[er] Inter[rogatoria] Ad sect[am] Tho[me] Stone quer[entis] ministr[ata]

Iohn Vowell of London poulter swor[n]e &c.

To the 1 Int[errogatorie] this defend[an]t sayth that he never dyd nor any of the defend[an]ts to his knowledge dyd ever beare any evell will malice or hatred towards the now Compl[ainan]t as is supposed in this Int[errogatorie].

2 To the 2 Int[errogatorie] this defend[an]t sayth that for his owne p[ar]te & for the ther[e] defend[an]ts to his knowledge sayth that neither he not they to his knowledge dyd ever Consult or advise to harme the now Compl[ainan]t in estate goods or bodye And more to this Int[errogatorie] he cannot depose.

3 To the 3 Int[errogatorie] this defend[an]t sayth that he dyd never watch nor any of the defend[an]ts to his knowledge dyd ever Conclude or agree to watche the now Compl[ainan]t when he should ryde into the Cuntry as is likewise supposed in this Interr[ogatorie].

8 To the 8 Int[errogatorie] this defend[an]t sayth and doth affirme that he him self nor any of the defend[an]ts to his knowledge dyd at any tyme Consult or agree to reporte that the said Walters had byn robbed or that the Compl[ainan]t vnder Cullor to doe the Kings Ma[jes]ties service dyd vse to ryde abroad to take purses or any words to that effect.

9 10 To the 9 & 10 Int[errogatories] this defend[an]t sayth that he can say nothing Concerning the same.

11 To the 11 Int[errogatorie] this defend[an]t sayth that nether he nor to his knowledge any of the defend[an]ts dyd Consult or agree to make any meanes To the Kinge Ma[jes]tie[s] or any other p[er]son or p[er]sons for the begging of the goods & Chattels of the said Compl[ainan]t nether dyd her nor any of the defend[an]ts to his knowledge p[ro]cure or assent that the defend[an]t Walters at A Sessions holden in & for the Cuntry of Essex in this Int[er]rogaorie] menc[i]oned should p[ro]fer a bill of Indyc[t]ement vnto the Grand Iury there. And vppon his oathe giue in evidence vnto the said Grand Iurye that the Compl[ainan]t had robbed the said Walters as is in this Int[e]rrogatorie] likewise supposed. To all the rest of these Interr[ogatorie] he this defend[an]t sayth he Can say nothing of his owne knowledge concerning the same.

Joh[n] Vowell

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[f151 r.] Ex[a]m[aminacion] Capt[a] 15[^o] [Die] dec[embris] an[no] [Regni] 6^o Ja[cobi] reg[is] Ang[lie] Fr[ancie] et Hib[er]nie et Sc[otie] 42 sup[er] Interr[ogatoria] ad sect[am] Tho[me] Stone quer[entis] ministr[rata]

Joanes Harlowe of London Cooke swor[n]e &c.

1 To the 1 Int[errogatorie] this defend[an]t sayth that nether he nor anye of the defend[an]ts to his knowledge dyd ever beare or owe any evell will malice or hatred towards the Compl[ainan]t Tho[mas] Stone.

2 To the 2 Int[errogatorie] this defend[an]t sayth that he never dyd nor any of the defend[an]ts to this knowledge ever dyd Consult or Advise to harme the now Compl[ainan]t e[i]ther in [his] estate bodye or goods. as is supposed in this Int[errogatorie].

3 To the 3 Int[errogatorie] this defend[an]t sayth that for his owne p[ar]te he never dyd nether doth he knowe that ever any of the defend[an]ts dyd at any tyme Conclude or agree to watche the said Compl[ainan]t when he should ryde abrode in To the Cuntrye as in this Int[errogatorie] is likewise supposed.

4 2 6 7 To the 4 5 6 & 7 Interr[ogatories] this defend[an]t is not to be examyned by the direction of the Compl[ainan]t.

8 To the 8 Int[errogatorie] this defend[an]t sayth that he did not nor any of the defend[an]ts to his knowledge did at any tyme Consult or agree to reporte that the defend[an]t Wa[l]ters in this Int[errogatorie] named had byn robbed

by the Compl[ainan]t Stone or that the Compl[ainan]t vnder Cullor & p[re]text to doe the kings Ma[jes]ties service dyd ryde abroad to take purses but this defend[an]t sayth that sytting at supp w[i]th his wiffe & another woman ammagst other speeches the wiffe of this defend[an]t lett fall these words or the like in effect viz yf it be trew, that is reported abroad the Compl[ainan]t meaning Mr Stone is a great theif for w[hi]ch words this defend[an]t blaming his said wiffe their Communicac[i]on ended & more to this Int[errogatorie] he cannot depose.

To the 9 10 11 12 13 14 15 15 Int[errogatories] this defend[an]t sayth he Can-not depose save only that he this defend[an]t did p[ro]cure A warrant from one of the Iustices of the Peace for t[h]e Citty of London to apprehend t[h]e said Compl[ainan]t but not in the defence of the s[ai]d Walters but in his owne behalf to know why the Compl[ainan]t did molest & sue this defend[an]t in the kings bench for the words in the fom[er] Int[errogatorie] spoken by the wife of this defend[an]t w[hi]ch warrant was neu[er] served vppon t[h]e Compl[ainan]t nor any thing don[e] therin Concerning the same And more then this To the s[ai]d Interr[ogatorie] Can he not depose.

[Signed with a mark]

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[f153 r.][x mark] Henry Bate Interr[ogatories] 1 2 8 10 11 12 13 14 15 16

[x mark] Iohn Woodbridge Interr[ogatories] 1 2 3 8 9 10 11 12 13 14 15 16

[x mark] Nicholas Kefford Interr[ogatories] 1 2 8 9 10 11 12 13 14 15 16

[x mark] Wil[liam]: Burt Interr[ogatories] 1 2 8 9 10 11 12 13 14 15 16

[x mark] Isabell Burt Interr[ogatories] 1 2 8 9 10 11 13 14 15 16

[x mark] Edward Leake Interr[ogatories] 1 2 3 8 9 10 11 12 13 14 15

[x mark] Anthonie Hakes Interr[ogatories] to all but To the 17

[x mark] Symon Ioy to all Interrogatories but the 17

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[f154 r.] Ex[aminatio] Cap[ita] xiiij^o die Nov[embris] Anno [Regis] vj^o Ja[cobi] R[egi]s sup[er] Inter[rogatoria] ad sect[am] Thome Stone Quer[entis] Ministr[ata]

Iohn Woodbridge Citizen and imbroderer of London sworne &c.

To the first Interr[ogatorie] this defend[an]t saith that neyther he this defend[an]ts nor any other of the defend[an]ts to his knowledge did ever beare any evill will malice or hatred towards the now Complayn[a]nt Thom[a]s Stone.

To the second Interr[ogatorie] this defend[an]t saith that neither he this defend[an]t, nor any other of the defend[an]ts (to his knowledge) did at any tyme consult or adviseto harme the s[ai]d Compl[ainan]t either in his estate goods or boddy as in this Interr[ogatorie] ys supposed.

To the third Interr[ogatorie] this defend[an]t saith that neither he this defend[an]t nor to his knowledge any other of the defend[an]ts did at any tyme Conclude or agree to watch the s[ai]d Complayn[a]nt when he should ryde into the Cuntrey, as in this Interr[ogatorie] ys supposed.

To the viijth Interr[ogatorie] this defend[an]t saith that neither he this defend[an]t not any other of the defend[an]ts to his knowledge did Consulte or agree nor did make any such report as in this Interr[ogatorie] ys supposed.

[f154 v.] To the ixth Interr[ogatorie] this defend[an]t saithe that neither he this defend[an]t nor to his knowledge any other of the defend[an]ts did at any tyme assemble themselves together, and Consult or agree, that the said Walters should report that he the said Walters had ben robbed nere Vgley in the Conntry of Essex And that he the s[ai]d Walters should affirme the now Compl[ainan]t to be one of them that had rob[be]d him the said Walters, And that he the s[ai]d Walters should therevppon procure A Warrant from some of the Iustic[e]s for of the of the peace for the Cittie of London to app[re]hend the s[ai]d d Complaynant as in this Interr[ogatorie] ys suppos[e]d Neyther did he this defend[an]t nor any other of the defend[an]ts to his knowledge: at any tyme promise or agree to spend any money in p[ro]secution of the now Complaynant for any Cause whatsoever as in this Interr[ogatorie] ys likewise supposed.

To the xth Interr[ogatorie] this defend[an]t saith that neither he this defend[an]t, nor any other of the defend[an]ts to his knowledge did at any tyme p[ro]cure any warrant for the apprehention of the said Compl[ainan]t as in this Interr[ogatorie] ys supposed, Neyther did he this defend[an]t, nor to his knowledg[e] any other of the defend[an]ts at the s[ai]d said Sessions in this Interr[ogatorie] menc[i]oned [f155 r.]soe affirme or say as in the said Inte[r-rogatorie] ys expressed.

To the xjth Interr[ogatorie] this defend[an]t saith that neither he this def[en]d[an]t or anye other of the defend[an]ts to his knowledge did any of the matters in this Interr[ogatorie] supposed.

To the xijth Interr[ogatorie] this defend[an]t saith the he doth not know what the s[ai]d Walters depose at the s[ai]d great Sessions in this Interr[ogatorie] menc[i]oned neyther was this defend[an]t acquainted aforehand, w[i]th what the s[ai]d Walters intended to depose at the s[ai]d Sessions.

To the xiiijth Interr[ogatorie] this defend[an]t saith that he not knowe that the s[ai]d Compl[ainan]t did Comence and prosecute an Acc[i]on of the Case against the s[ai]d Walters for any such matter as in this Interr[ogatorie] is menc[i]oned Neyther did this defend[an]t disbursse any money in the s[ai]d suite, or otherwise mainetain or Counten[a]nce the same, not did p[ro]cure or sue forth any such writte or pryvedge as in this Interr[ogatorie] ys [f155 v.] ys supposed, not knoweth whether any of other [of] the defend[an]ts did any of those things or not.

To the xiiijth Interr[ogatorie] this defend[an]t saith he doth not knowe whether any, prosedendo [sic] was had from the s[ai]d Court of Comon pleas, or not And further saith that he this defend[an]t did not sue forth or procure any writte or writts of Habeas Corpus at all to any the purposes or intents in this Interr[ogatorie] menc[i]oned, Nor did lay out or disbursse any money about the procureing of the s[ai]d writts of H[ab]eas Corpus or any of them, nor knoweth whether any other of the defend[an]ts did lay out or disburse any money in that behalf or not nor canne further depose to this Interr[ogatorie].

To the xvth Interr[ogatorie] this defend[an]t saith that neither he this defend[an]t, nor any other of the defend[an]ts to his knowledge did advise or procure the said Walters to absent himselfe for a tyme for any purpose or intent whatsoever, And further to this Interr[ogatorie] he cannot depose.

To the xvjth Interr[ogatorie] this def[en]d[an]t saith that he this defend[an]t, did not p[ro]cure any writte of Error for the reu[er]using of the [f156 r.]said Indictm[e]nt in this Interr[ogatorie] menc[i]oned nor did disburse or lay out any money for or about the procuring of the s[ai]d writte of Error But what any other of the defend[an]ts haue done Conc[er]ning any of the s[ai]d matters in that Interr[ogatorie] menc[i]oned he doth not knowe.

To the xvijth Interr[ogatorie] this defend[an]t saith that in or about the s[ai]d xiiijth day of October now last past he this defend[an]t togeather w[i]th the

s[ai]d Falke Bromely in this Interr[ogatorie] named And Thomas Bullard servant vnto the Edward Leak one other of the defend[an]ts in this suite And twoe others whose names this defend[an]t knoweth not coming all together in the night tyme w[i]th Poultreys ware in the highe way From the s[ai]d Towne of Hod[de]sdon in this Interr[ogatorie] menc[i]oned towards London, the said Bromeley did dyvers tymes stryke a ryding rodde out of the hands of one of the s[ai]d p[er]sons whose name this defend[an]t knoweth not then w[hi]ch he then had to dryve certaine horses before him laden w[i]th Powltreys ware; by reason whereof the s[ai]d Bromeley and the s[ai]d other p[er]son fell together by the eares w[i]th the[i]re ryding rodde and fists, neyther of them haueing any other weapon about them And this defend[an]t and the s[ai]d Thomas Bullard p[er]ceyving the s[ai]d other p[er]sons [f156 v.] to be hard for him the s[ai]d Brom[e]ley and that he had gotten the s[ai]d Bromeley vnder him downe uppon the ground under him in good will vnto the s[ai]d Bromeley alighted from the[i]re horses, and pulled the s[ai]d other p[er]son from him And so p[ar]ted them howbeyt the s[ai]d Bromeley would not be satisfied but did still assault the s[ai]d other p[er]son, wherevpon he this defend[an]t and the s[ai]d Thomas Bullard gott againe uppon there horses & rode the[i]re way And lefte them the s[ai]d Bromeley and the s[ai]d other person together by the eares w[i]th the[i]re fists, And more deposeth not to this Interr[ogatorie].

To the any other of the Interr[ogatorie] he ys not examined by the direcc[i]on of the Compl[ainan]t.

Iohn Woodbridge

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[f157 r.] [Ex(aminatio) Cap[ita] xv^o die No[vembris] 1608 [Ad sectam] Thome Stone Quer[rentis] ministrate.

Henrie Bate Cityzen and inbroderer of London sworne &c.

To the first Interr[ogatorie] this defend[an]t saith that neither he this defend[an]t, nor any other of the defend[an]ts (to his knowledge) , haue at any tyme borne any evill will mallice of or hatered towards the said Complayn[ant].

To the second Interr[ogatorie] this defend[an]t saith that neither he this defend[an]t, nor any other of the defend[an]t to this knowledge did Consulte or advise w[i]th any p[er]son or p[er]sons to harme the now Complayn[ante],

either in his estate goodes or boedy And in any such sorte as in this Interr[ogatorie] ys supposed.

To the viijth Interr[ogatorie] this defend[an]t saith that neither he this defend[an]t nor any other of the defend[an]ts to his knowledge did consult or agree to report that the said Walters had ben robbed And that the Complayn[a]nt vnder Cullor to doe the kinges Ma[jes]ties sevice did vse to ryde abroade to take purses, Neither did he this defend[an]t report or vse any speach to any such effecte.

To the ixth Interr[ogatorie] this defend[an]t saith that neither he this defend[an]t nor any other of the defend[an]ts to his knowledge did assemble themselves together, And consult or agree that the said Walters should report that hee [158 a] the said Walters had ben robbed nere Vgley in the County of Essex and that he should affirme that the nowe Complayn[a]nt was one of them that had rob[be]d him, And that he should p[ro]cure A warrant from some Iustice of peace for the Cittie of London to app[re]hend him the s[ai]d Compl[ainan]te, Neither did he this defend[an]t nor any other of the defend[an]ts to his knowledge promise or agree to spend any money in the p[ro]sequition of any matter against the said now Complayn[a]nt And further to this Interr[ogatorie] he doth not depose.

To the xth Interr[ogatorie] this defend[an]t saith that neither he this defend[an]t nor any other of the defend[an]ts to his knowledge did procure any warrant for the app[re]hending of the said Compl[ainan]tyme, But this defend[an]t saith that he hath hard the said Walters say that he the said Walters did procure A warrant from some of the Iustic[e]s of peace for the s[ai]d Cittie of London or the app[re]hending of the said Stone Compl[ainan]t, And further saith that as he this defend[an]t taketh yt the s[ai]d Complaynant was app[re]hended vppon the same warrant and brought before S[ir] Stephen Soame one of his Ma[jes]t[ie]s Iustic[e]s of peace for the s[ai]d Cittie of London And by him bound[e] over to appeare at the next Sessions then to be hold for the said Cittie of London, And this defend[an]t further saith that at the [f158 r.] Sessions hold for the s[ai]d Cittie of London hold in or about June now last past, the said Walters one other of the defend[an]ts in this suite did affirme that he the said Walter [sic] had ben rob[be]d in the said County of Essex, And further saith that the s[ai]d Complayn[a]nt was therevppon bound over to appeare at the next greate Sessions then to be held in and for the said County of Essex, And further saith that he this def[endan]t Anthonie

Hawkes, Edward Cooke Allen Baker Carter Iohn Woodbridge And some others whose names this defend[an]t now remembreth not were present and in Company w[i]th the s[ai]d Walters at the said Sessions then held for the said County of Essex, But this defend[an]t saith that neither he this defend[an]t nor any other of the s[ai]d p[er]sons to this defend[an]ts knowledge did meddle or had anything there to doe in the said busynes.

To the xjth Interr[ogatorie] this defend[an]t saith that neither he this defend[an]t nor any other of the defend[an]ts to his knowledge did consult or agree to make any meanes To the kinges Ma[jes]tie[s] or any other p[er]son for the begging of the Compl[ainan]ts goodes and Chattles Neyther did he this defend[an]t nor any other of the defend[an]ts to his knowledge p[ro]cure or assent that the said Walters, at the said great Sessions [f158 v.]held in and for the s[ai]d County of Essex should prefere A bill of Inditem[en]t vnto the grand Iury there; and vppon his oath to gyve in evidence To the s[ai]d grand jurie there that the s[ai]d Compl[ainan]t had rob[be]defend[an]t the s[ai]d Walters.

To the xijth Interr[ogatorie] this defend[an]t saith that he as he this defend[an]t doth verilie beleve the said Walters at the said greate Sessions held in Julie last in and for the said County of Essex, did depose and give in evidence vnto the said Grand Jurie then and there sworne that the said Complayn[a]nt had rob[be]defend[an]t him the said Walters, And further saith that he this defend[an]t before the said evidence gyve as aforesaid, did p[ar]telie knowe what the said Walters would depose s[ai]d against the said Complayn[a]nt by reason that this defend[an]t did often heare the said Walters Confidentialie affirme that in his Conscience the said Complayn[a]nt was one of then p[er]sons that had rob[be]d him.

To the xiiijth Interr[ogatorie] this defend[an]t saith that he doth know that the said Complayn[a]nt did comen[ce] and prosecute an acc[i]on of the Case against the s[ai]d Walters in the Guilde hall in London for certaine words by the s[ai]d Walters spoken of the said Complayn[a]nt, But [f159 r.]this defend[an]t saith that neyther he this defe[ndan]t nor any other of the defend[an]ts to his knowledge did of the[i]re owne pursses disbursse any monney in the said suite nor did other wise maynetaine or counten[a]nce the same, And this defend[an]t further saith that the said Walters did sue forth a writte of Pryvedge to remove the said cause To the from the s[ai]d Sh[e]rifes Court in the said Guild Hall vnto the Court of Com[m]on Pleas at Westmi[nster]

But this defend[an]t saith that neither he this defend[an]t nor any other of the defend[an]ts to his knowledge did of the[i]re owne pursse disburse any money for the said writte of Priviledge And more deposeth not to this Interr[ogatorie].

To the xiiijth Interr[ogatorie] this defend[an]t saith that as he this defend[an]t taketh yt there was a prosedendo in the said Cause procured out of the said Court of Com[m]on Pleas, for the bring back againe of the said accon into the s[ai]d Sh[e]rife Co[ur]t at Guild hall And further saith that the said Walters did afterwards by his Atturney sue forth and p[ro]cure a writte of H[ab]eas Corpus (as this defend[an]t taketh yt to be) out of his Highenes Court of Kings bench at westm[inster] to recover the said acc[i]on from the s[ai]d Sh[e]riffes Courte in Guild hall London, And that as he this defend[an]t taketh yt there was a p[ro]sedendo therevppon procured by the Compl[ainan]t in the s[ai]d suite, out of the s[ai]d Court of Kings bench for the bringing backe agane of the s[ai]d acc[i]on To the [160 a]s[ai]d Sh[e]riffes Court at Guild hall in London aforesaid, And alsoe saith that the s[ai]d Walters did afterwards by his Atturney procure a second H[ab]eas Corpus in the s[ai]d cause And this defend[an]t further saith that the money disbursed in the procuring of the said seu[e]rall writts of H[ab]eas Courpus was the said Walters his owne money for anything this defe[ndan]t knoweth To the Contrarie.

To the xvth Interr[ogatorie] this defend[an]t saith that the said Complayn[a]nt did recover in the said Acc[i]on of the Case against the s[ai]d Walters, and had judgem[en]t therevppon accordingly And further saith that he this defend[an]t and the s[ai]d Walters his Atturney did thervppon advise the s[ai]d Walters being his this def[endan]ts prentize to absent himself vntill such tyme as a writte of Error might be p[ro]cured for the reu[er]using of the said Iudgm[e]nt against him the s[ai]d Walters as aforesaid And nor for any such as in this Interr[ogatorie] ys supposed And further saith that the s[ai]d Walter did therevppon absent himselfe by the space of a fortnight or there abouts, And then afterwards returned againe to his former service where nowe remaineth And more to this Interr[ogatorie] he doth not depose.

[f160 r.]To the xvth Interr[ogatorie] this defend[an]t saith that the said Raph Walter after the said Iudgem[en]t had against him as aforesaid did by his Atturney procure a writte of error for the Reu[er]using of the said Iudgem[en]t, And further saith that the same writte of Error was by his s[ai]d Atturney sued forth in the absence of him the s[ai]d Walter Howbeyt the same was

soe done by the Consent allowance of him the said Ralph Walter, And further saith that the money disbursed for the s[ai]d writte of Erro[r] was the said Walter his owne money for any the thing he this defend[an]t knoweth To the contrary And more to this Interr[ogatorie] he doth not depose.

Henry Bates

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[f168 r.]Exam[inatio] Capt[a] 30^o [die] Nov[embris] an[no] [Regis] 6[^o] Ja[cobi] sup[er] Interr[ogatoria] Ad sect[am] Tho[me] Stone quer[entis] ministr[ata]

Anthonye Hawke of London powlter sworn &c.

1 To the 1 Inter[rogatorie] this defend[an]t sayth that nether he nor anye other the defend[an]ts to this defend[an]ts knowledge dyd or doe beared any evill will or malice towards or against the now Compl[ainan]t.

2 To the 2 Inter[rogatorie] this defend[an]t sayth that he dyd not nether anye of the other defend[an]ts to his defend[an]ts knowledge dyd Consult or Advise to harme the now Compl[ainan]t in estate goods or bodye as in this Inter[rogatorie] is supposed.

3 To the 3 Inter[rogatorie] this defend[an]t likewise sayth that he this defend[an]t nether any other of the defend[an]ts to his knowledge dyd at any tyme Conclude & agree to watche the now Compl[ainan]t when he should ryde into the C[o]untry as by the Compl[ainan]t in this Inter[rogatorie] supposed.

4 To the 4 Inter[rogatorie] this defend[an]t sayth that about the tyme in this Inter[rogatorie] menc[i]oned he this defend[an]t Hawkes & the other defend[an]t in this Inter[rogatorie] named dyd overtake the now Compl[ainan]t not about the place likewise in this Inter[rogatorie] declared And one of the defend[an]ts Raphe Walters Ryding before Retorned back to this defend[an]t Hawks and told him that yonder was the man that had Robbed him for saythe he the said Waters the Clothes he weareth & the horse he rydeth on are the very same that he wore & Ryd vppon that robbed me as aforesaid. wherevppon this defend[an]t Hawks told the said Waters that he should beware how he did chalendg[e] a man wrongfully, and therefore willed him to looke and mark him well before he did Chardge him ther[e]w[i]th wherevppon the said Walters ouerlooke the Compl[ainan]t agayne and vewed the Compl[ainan]t

well as he thought And retorned back to this defend[an]t Hawkes & To the other defend[an]t & told the the[m] that on a truth this the Compl[ainan]t was the man that had Robbed him. wher[e]vppon this defend[an]t Hawkes willed the said Waters the seacond tyme to goe agayne & mark him well and be well advised whether this weare the man in Dede that had so Robbed him as aforesaid, who ther[e]vppon Ryd out the 2 tyme from this defend[an]t & from the other defend[an]t Ioye for they weare all 3 togeather did looked & marked him agayne, & Imediatly Retorned saying as aforesaid of a certainty this is the man that robbed me [f168 r.] And ther[e]vppon this defend[an]t togeather w[i]th the other 2 defend[an]t Waters & Ioye ryde out and overtooke the Compl[ainan]t & ryd before him, The Compl[ainan]t seing these defend[an]ts to ryde before him slacked his pace and rode softlye w[i]th these defend[an]t p[re]ceyving they these defend[an]ts tooke the self same Course & rode softlye, but the Compl[ainan]t taking notice hereof (as this defend[an]t thinketh) putt out his horsse & gallopt before these defend[an]t And anon after the said Compl[ainan]t slacking his pace, and ryding softly, this defend[an]t and the other 2 defend[an]ts Walters, & Ioye ouertooke him agayne and rode before him, And in Edmonton towne he this defend[an]t Hawkes alighted turning his horsse downe the hill & looking back might see the Compl[ainan]t Come galloping along who overtooke these defend[an]ts agayne and outryde them, wher[e]vppon the defend[an]t Waters Intreated this defend[an]t Hawkes that he would ryde before to Enfeild & Cause the Compl[ainan]t to be stayed And this defend[an]t sayth that at the request of the said Waters he this defend[an]t put out his horsse & galloped before To the said towne of Enfeild And there meeting w[i]th certayne townsmen of the said towne of Enfeild enquired for a Constable who answered this defend[an]t that the Constable himself was lame and that the head boroughe was dwelling a great way of whervppon this defend[an]t enquired of the said townesmen of Enfeild what he mighe doe the Constable & headboroughe being not to be had) for sayth this defend[an]t a freind of myne had his man lately robbed, And the p[ar]tye that was soe robbed doth think verely that the man that robbed him was not far of Com[m]ing into the town amanegst other Company whervppon the p[ar]tyes to whome this defend[an]t spoke told him that any man might stay one vppon the highe way vppon suspic[i]on of felonye, And therevppon he this defend[an]t Hawkes intreated the said townesmen of Enfeild that they would com[e] forth into the highe way, who dyd soe Imediatly, demaunding of this defend[an]t w[hi]ch was he, to whome he this defend[an]t said that

that was he on the sorrell Bald horsse that the p[ar]tye w[i]ch was robbed did chalenge for the said robberye And therevpon the defend[an]t Waters somewhat more forward then the rest lighted from his horsse & layd hould on the brydle of the Compl[ainan]ts horsse, And so soone as this defend[an]t [f169 r.] Hawkes had tyed his horsse from Running awaye he this defend[an]t Came in vnto them, and making well the Compl[ainan]t, (whoe before he Could not discry[b]e by reason the Compl[ainan]ts hatt hong over his eies) spoke vnto the Compl[ainan]t these words. what Mr Stone is in yow, And then bending his speeche To the defend[an]t Waters told hime that surely he was deceaved for his Compl[ainan]t is a brother of our Company and one of his Ma[jes]ties servaunts whome thow maiest at anye tyme have yf thow hast any thing to say vnto him And therefore desyred the said Waters to lett the Compl[ainan]ts bridle goe.

5 To the 5 Int[errogatorie] this defend[an]t sayth that he Can say not more then he hathe alrede deposed in the 4 Int[ogatorie].

6 To the 6 Int[errogatorie] this defend[an]t sayth that before that tyme he this defend[an]t did well knowe the Compl[ainan]t as he hathe all[eg]ed[l]y affyrmed in the 4 Inter[rogatorie] but whether the other 2 defend[an]ts Ioye and Waters in this Inter[rogatorie] menc[i]oned did knowe the sayd Compl[ainan]t he this defend[an]t knoweth not.

7 To the 7 Int[errogatorie] this defend[an]t sayth that certayne gent[leman] ryding in the Company of the Compl[ainan]t & asking what the matter was, he this defend[an]t annswered that he hoped that it was nothing but only a matter mistaken by the other defend[an]t Raphe Walters. And more to this Int[errogatorie] he this defend[an]t cannot depose.

8 To the 8 Int[errogatorie] this defend[an]t sayth that for himself he this defend[an]t dothe vtterly deny that ever he this defend[an]t dyd Consult or agree to giue out or make report that the said Walters had byn robbed or that the Compl[ainan]t vnder Collor to doe the kings service dyd vse to ryde abroad to take purses as in this Int[errogatorie] is supposed but whether the other defend[an]t dyd either Consult or agree soe to doe he this defend[an]t knoweth not.

To the 9th Int[errogatorie] this defend[an]t sayth that he for himself cann say nothing ther[e]in.

To the 10 Int[errogatorie] this defend[an]t sayth that for his owne p[ar]te he

this defend[an]t did not p[ro]cure any such warrant to bynde the Compl[ain-
an]t to appeare at the Sessions in this Int[errogatorie] named, nether did he
this defend[an]t at the said sessions [f171 v.] a]affirme that the said Waters
had byn robbed in the said County of Essex as in this Inte[errogatorie] is
supposed but this defend[an]t sayth that he this defend[an]t was at the said
sessions holden for the sayd Cittye of London being bound over to appeare
there by the meanes of the Compl[ainan]t. And he farther sayth that he this
defend[an]t thinketh that Henry Bate one of the defend[an]ts & maister To
the said Waters, was there then likewise p[re]sent but to what end or purpose
he this defend[an]t knoweth not.

11 To the 11 Int[errogatorie] this def[endant] sayth he can say nothing.

12 To the 12 Int[errogatorie] this defend[an]t sayth that he this def[endant]
was present at the said Sessions in July in this Int[errogatorie] menc[i]oned
when the defend[an]t Waters depose & giue in Evidence vnto the graund
jurye being there sworn that the Compl[ainan]t had robbed him the said
Waters, but what the effect and substaunce of the said oath was he this de-
fend[an]t dothe not now remember. And more to this Inter[rogatorie] he thys
defend[an]t saythe that he cannot depose.

13 To the 13 Int[errogatorie] this defend[an]t sayth that he hathe hard that
there was a sute Comenced by the Compl[ainan]t against the said Walters
for certayne words the said Waters [sic] should speake but what these words
weare or what was down in the said sute ether by this defend[an]t or any oth-
er of the rest of the defend[an]ts he this defend[an]t knoweth not.

14 To the 14 Int[errogatorie] he this defend[an]t sayth he can say nothing.

To the 15 Int[errogatorie] he this defend[an]t so sayth he can say nothing
ther[e]in.

16 To the 16 Int[errogatorie] This defend[an]t sayth that he can say no more
then he hath allredy said in the form[er] Inte[rrogatorie].

Anthony Hawkes

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[f.172 r.] Exam[inatio] Capt[a] 10^o die Dec[embris] an[no] [Regis] 6^o
Ja[cobi] reg[is] Ang[lie] F[ranc]i[e et Hib[er]nie et Sc[otie]. 42^o sup[er]
Interr[ogatoria] ad sect[am] Tho[me] Stone quer[entis] Ministr[ata]

Symon Ioye of London poalter sworn &c.

1 To the 1 Int[errogatorie] this defend[an]t sayth that nether he nor any other of the defend[an]ts to his knowledge dyd beare any evill will hatred or malice towards the Compl[ainan]t as is supposed in this Int[errogatorie].

2 To the 2 Int[errogatorie] this defend[an]t sayth likewise that he dyd not nor any of the defend[an]t to his knowledge dyd Consult or Advise to harme the now Compl[ainan]t in estate goods or body as is also in this Int[errogatorie] supposed.

3 To the 3 Int[errogatorie] this defend[an]t sayth That he dyd not nor any of the defend[an]ts to his knowledge at any tyme Conclude or agree to watch the now Compl[ainan]t when he should ryde into the Contry as is likewise supposed in this Int[errogatorie].

4 To the 4 Int[errogatorie] this defend[an]t sayth that about the tyme in this Int[errogatorie] menc[i]oned he this defend[an]t & the 2 other defend[an]ts in this Int[errogatorie] named ryding togeather overtooke the Compl[ainan]t vppon the highe way neere Totna or therabouts to this defend[an]ts remembr[ance] And dyd outryde the said Compl[ainan]t some 3 rodde or therabouts And then after ryding softly, the Compl[ainan]t Stone dyd outryde this defend[an]t & the other 2 defend[an]ts Hauks & Walters, And farther sayth ther he doth remember that he this defend[an]t and the other 2 defend[an]ts dyd at seu[er]all tymes outryde or stay vntill the Compl[ainan]t should [illegible] And sayth that they did not or any of the[m] to this defend[an]ts knowledge speake one word in all that tyme vnto the Compl[ainan]t.

5 To the 5 Int[errogatorie] this defend[an]t sayth that he & the other defend[an]ts Hawks & Walters dyd ride a mayne gallopp by the now Compl[ainan]t at or neere the villadge of Enfeild And sayth that he hath hard that the said Waters dyd take the horsse of the Compl[ainan]t by the braydle & stayed the Compl[ainan]t but farther to this Int[errogatorie] he cannot depose.

6 To the 6 Int[errogatorie] this defend[an]t sayth that he Dyd not know the Compl[ainan]t before nor at that tyme vntill Antho[ny] Haukes one other of the defend[an]ts did enforme this defend[an]t what he was & more to this Int[errogatorie] he cannot depose.

[f173 v.]7 To the 7 Int[errogatorie] this defend[an]t sayth that some gent[lemen] then p[re]sent ther[e] dyd demaund of this defend[an]t what moved this defend[an]t & the rest to stay the said Compl[ainan]t or words to that

effect to whome this defend[an]t answered that one of his Company had ben robbed whoe gave to this defend[an]t & the said Hawkes to vndersaid that the Compl[ainan]t was the man that had robbed him And saith farther that he thought the matter was mistaken or words to that effect And more he cannot say to this Int[errogatorie].

8 To the 8 Int[errogatorie] this defend[an]t sayth he Cannot depose.

9 10 To the 9 & 10th Int[errogatorie] this defend[an]t sayth likewise that he cannot depose.

11 12 To the 11 & 12 Int[errogatorie] this defend[an]t also sayth that he cannot depose.

13 To the 13 Int[errogatorie] this defend[an]t sayth that he hath Credebly hard that the Compl[ainan]t dyd Comence a sute against the def[endant] Walters in the Guild Hall in London for words by the said defend[an]t Walters spoken against the Compl[ainan]t but more to this Int[errogatorie] he cannot say.

14 15 16 To the 14 15 & 16 Int[errogatorie] this defend[an]t sayth he cannot depose.

p[er] me Symon Ioy

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[f174 r.] Exam[inatio] Capt[a] 11[^o] [die] Dec[embris] an[no] [Regis] 6[^o] Ja[cobi] reg[is] Ang[lie] Fr[ancie] & Hib[er]nie et Sc[otie] 42[^o] sup[er] In-
terr[ogatoria] Ad sect[am] Tho[me] Stone quer[entis] ministr[ata]

Edward Lake of London poulter sw[o]r[n]e &c.

1 To the 1 Int[errogatorie] this defend[an]t sayth that for his owne p[ar]te he never dyd nor any of the defend[an]ts to his knowledge dyd beare any evell will malice or hatred towards the now Compl[ainan]t as is supposed in this Inter[rogatorie].

2 To the 2 Int[errogatorie] this defend[an]t sayth that he never Consulted or advysed nether dyd any of the defend[an]ts to his knowledge Consult or advise to harme the Compl[ainan]t in estate goods or bodye as is likewise supposed in this Int[errogatorie].

3 To the 3 Int[errogatorie] this defend[an]t sayth that he did neu[er] watche nether did any of the defend[an]ts to his knowledge watche or Conclude or agree to watch the Compl[ainan]t when he should ryde abroad into the Country.

8 To the 8 Int[errogatorie] this defend[an]t sayth that he dyd not nether dyd any of the defend[an]ts to his knowledge Consult or agree to reporte that the said Walters had byn robbed And that the Compl[ainan]t vnder Cullor to doe the kinges Ma[jes]ties service dyd ryde abroad to take purses or any words to that effect.

9 10 To the 9 & 10 Int[errogatorie] this defend[an]t sayth he cannot depose.

11 To the 11 Int[errogatorie] this defend[an]t sayth that he dyd not nether doth knowe tht any of the defend[an]t dyd Consult or agree to make meanes To the kings Ma[jes]tie of to any other p[er]son for begging the goods & Chattles of the Compl[ainan]t nether dyd he this defend[an]t or any other of the defend[an]ts to his knowledge p[ro]cure or assent that the said Walters at the Sessions holden in & for the County of Essex should p[re]fer a bill of Indytment vnto the graund jury ther[e], & vppon his oath giue in evidence vnto the said Iury that the Compl[ainan]t had Robbed him as is supposed in this Int[errogatorie].

[f174 v.] 12 To the 12 Int[errogatorie] this defend[an]t sayth that he was p[re]sent at the said Sessions holden in & for the County of Essex when the said Walters dyd give in evidence vnto the Iury there that the Compl[ainan]t Stone had robbed him, And farther sayth that the s[ai]d Walters being demaunded by S[ir] Thomas Walmesely then cheif Iudge in & for the said sessions how he knewe that the Compl[ainan]t was the man, the said Waters Replyed and sayd that when he apprehended the Compl[ainan]t he had on the same Ierkin & bases & the same dagger & Roade vppon the same horse w[i]ch he did ryde vppon and w[i]ch he wore that had robbed him, & that he had a fewe white heares vnder his throate w[i]ch he took notice of while he stoode over the said Walters lying bound vppon his back, & that he discerned the same not w[i]thstanding he had on a false bearde over his owne or words to that effect to this defend[an]ts now remembrance, And more to this Int[errogatorie] he Cannot depose.

13 To the 13 Int[errogatorie] this defend[an]t sayth that he hathe hard that the Compl[ainan]t dyd Comence a sute against the said Walters in the guild Hall London vppon certayne words spoken by the said Walters against the Compl[ainan]t but sayth that he dyd neu[er] nor any of the defend[an]ts to his knowledge dyd disburse any money in the said sute or otherwise maynteyne or Countenance the same nether dyd he nor any of the defend[an]ts to his knowledge p[ro]cure or sue furthe a wrytt of priviled[ge] to remove the said Cause To the Courte of Com[m]on Pleas at Westminster nether dyd he

nor any of the defend[an]ts to his knowledge disburse anye monye in p[ro]curing the same as is supposed in this Int[errogatorie] And more to this Int[errogatorie] he cannot depose.

14 To the 14 Int[errogatorie] this defend[an]t sayth he cannot depose.

15 To the 15 Int[errogatorie] this defend[an]t sayth that he hathe hard that the Compl[ainan]t dyd recover in the said action of the Case against the said Walters & had a Iudgment accordingly as this defend[an]t hath hard And more to this Int[errogatorie] he Cannot depose.

[f175 r.] To the 16 Int[errogatorie] this defend[an]t sayth he Cannot depose.

E[d]woar[d] Leake

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[f176 r.] Exam[inatione] Capt[aa] 11[º] [die] Dec[embris] an[no] [Regni] 6[º] Ja[cobi] reg[is] Ang[lie] Fr[ancie] & Hib[er]nie & Sc[otie] 42[º] sup[er] Int[errogatoria] Ad sect[am] Tho[me] Stone quer[entis] ministr[ata]

Isabell Burt wiffe of Will[ia]m Burt of London poulter swor[n]e &c.

1 To the 1 Int[errogatorie] this defend[an]t sayth that she neuer dyd nether any of the defend[an]ts to her knowledge dyd beare or owe any evill will malice or hatred To the now C[om]pl[ainan]t.

2 To the 2 Int[errogatorie] sayth that she dyd never nor any other To the knowledge dyd consult or advise to harme the now Compl[ainan]t in estate body or goods as in this Int[errogatorie] is supposed.

8 To the 8 Int[errogatorie] this defend[an]t sayth that nether she nor any of the defend[an]ts to her knowledge dyd Consult or agree to report that the said Walters had byn robbed & that the Compl[ainan]t vnder Cullor to do the kings Ma[jes]ties service dyd vse to ryde abroad to take purses or any words to that effect as is supposed in this Int[errogatorie].

9 To the 9 Int[errogatorie] this defend[an]t sayth that she cannot depose.

10 11 To the 10 & 11 Int[errogatorie] this defend[an]t sayth likewise that she Cannot depose.

13 14 15 16 To the 13 14 15 16 Int[errogatorie] this defend[an]t saythe as before that she Cannot depose.

[signed with a mark]

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[f178 r.] Exam[inatio] Capt[a] 11[^o] [die] Dec[embris] an[no] [Regni] 6[^o] Ja[cobi] reg[is] Ang[lie] Fr[ancie] & Hib[er] nie et Sc[otie] 42 sup[er] Inter-
r[ogatoria] Ad sect[am] Tho[me] Stone quer[entis] ministr[ata]

W[illia]m Burt of Londo[n] poulter sworne &c.

1 To the 1 Int[errogatorie] this defend[an]t sayth that he dyd never beare any evell will malice or hatred To the nowe Compl[ainan]t, ne[i]ther dyd any of the defend[an]t to this defend[an]ts knowledge.

2 To the 2 Int[errogatorie] this defend[an]t sayth that he dyd not nether any of the defend[an]ts to his knowledge did Consult or advise to harme the now Compl[ainan]t ether in estate body or goods as is supposed in this Int[errogatorie].

8 To the 8 Int[errogatorie] this defend[an]t sayth that he never dyd nor any of the defend[an]ts to his knowledge did Consult or agree to reporte that the said Waters had byn robbed or that the Compl[ainan]t vnder Culler to doethe the kings Ma[jes]ties service dyd vse to ryde abroad to take purses nor any words to that effect as in this Int[errogatorie] is supposed.

9 10 To the 9 & 10 Int[errogatorie] this defend[an]t sayth he cannot depose.

11 12 To the 11 12 Int[errogatorie] this defend[an]t sayth likewise he cannot depose.

To the 13 Int[errogatorie] this defend[an]t sayth that he hathe hard that the Compl[ainan]t dyd Comence a sute in the guild hall London against the said Walters for wordes spoken against the now Compl[ainan]t, but he sayth that he dyd neu[er] nor any of the defend[an]ts did to his knowledge disburse any monye in the said sute or otherwise maynteyne or Countenaunce the same, nether dyd he nor any other to his knowledge p[ro]cure or sue furthe a writt of p[ri]viledge to remove the said Cause To the Courte of Com[m]on Pleas at Wesminster nether dyd he or they to his knowledge disburse any money about the same And more to this Int[errogatorie] he Cannot depose.

[f179 v.] 14 15 16 To the 14 15 and 16 Int[errogatories] this defend[an]t sayth that he Cannot depose.

[signed with a mark]

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[fi80 r.] Exam[inatio] Capt[a] 11[º] [die] Dec[embris] an[no] 6[º] [Regni] Ja[cobi] reg[is] Angl[ie] Fr[ancie] & Hib[er]nie et Sc[otie] 42[º] sup[er] In-
terr[ogatoria] Ad sect[am] Tho[me] Stone quer[entis] ministr[ata]

Nich[ol]as Kefford of London Poulter sworn &c.

1 To the 1 Int[errogatorie] this defend[an]t sayth that nether he nor any other of the defend[an]ts to his knowledge, doe beare or owe any evell will malice or hatred vnto the Compl[ainan]t Thomas Stone as in this Int[errogatorie] is supposed.

2 To the 2 Int[errogatorie] this defend[an]t sayth that he hathe nor nether any of the defend[an]ts to his knowledge have Consul[t]ed or advised to harme the now Compl[ainan]t in estate goods or body as is likewise in this Int[errogatorie] supposed.

3 To the 3 Int[errogatorie] this defend[an]t sayth that he dyd not nether any of the defend[an]ts did to his knowledge at any tyme Conclude & agree to watche the nowe Compl[ainan]t when he should ryde into the Cuntry as is supposed by the Compl[ainan]t in this Int[errogatorie].

4 5 6 & 7 To the 4 5 6 & 7th Int[errogatories] this defend[an]t sayth that he Cannot depose.

8 To the 8 Int[errogatorie] this defend[an]t sayth that he never dyd nor any other of the defend[an]ts dyd Consult or agree to reporte that the said Walters had byn robbed, And that the Compl[ainan]t vnder Collor to doe the kings Ma[jes]ties service, dyd vse to Ryde abroade to take purses, or any words to that effect.

9 10 To the 9 & 10 Int[errogatories] this defend[an]t sayth that to his knowledge ther[e] was never any agreement or Consultac[i]on had or made betwene this defend[an]t w[hi]ch any other p[er]son or p[er]sons whatsoever therby to make meanes To the kings Ma[jes]tie or any other p[er]son for begging the goods & Chattles of the Compl[ainan]t, nether dothe this defend[an]t knowe nether dyd he p[ro]cure or assent that the said defend[an]t Walters at the Sessions holden in & for the County of Essex should p[re]fer a bill of Indictement vnto the graund Iury there, & vppon his oathe to giue in Evidence To the said Iury that the Compl[ainan]t had Robbed the said Walters as is supposed.

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[fi82 r.] Exam[inatio] Capt[a] 12[º] [die] Dec[embris] an[no] 6[º] [Regnis]

Ja[cobi] reg[is] Ang[lie] Fr[ancie] et Hib[er]nie et Sc[otie] 42^o sup[er] Inter[rogatoria] Ad sect[am] Tho[me] Stone quer[entis] Ministr[ata]

Susan Moyse the wiffe of Thomas Moyse of London poulter swor[n]e &c.

1 To the 1 Int[errogatorie] this defend[an]t sayth that she never dyd nor any of the defend[an]ts to her knowledge dyd beare any evell will malice or hatred towards the now Compl[ainan]t.

2 To the 2 Int[errogatorie] this defend[an]t sayth that nether she, nor any of the defend[an]ts to he knowledge dyd Consult or advise to harme the now Compl[ainan]t ether in estate bodye or goods. as is supposed in this Int[errogatorie].

3 To the 3 Int[errogatorie] this defend[an]t sayth that did not nor none of the defend[an]ts to her knowledge dyd at any tyme Conclude or agree to watch the now Compl[ainan]t when she should ryde into the Cuntry.

8 To the 8 Int[errogatorie] this defend[an]t sayth that she dyd not nor any of the defend[an]ts did to her knowledge Consult or agree to reporte that the said Walters had byn robbed or that the Compl[ainan]t vnder Cullor of doing the kings Ma[jes]ties service dyd vse to ryde abroad to take purses or any words to that effect To all the rest of the Int[errogatories] this defend[an]t sayth she cannot depose.

[signed with a mark]

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[f184 r.] Exam[inatio] Capt[a] 12^o [die] Dec[embris] an[no] [Regni] 6^o Ja[cobi] reg[is] Ang[lie] Fr[ancie] Hib[er]nie et Sc[otie] 42^o sup[er] Inter[rogatoria] Ad sect[am] Tho[me] Stone quer[entis] Ministr[ata]

Edward Hunter of London poulter sworn &c.

1 To the 1 Int[errogatorie] this defend[an]t sayth that he never dyd nor any of the defend[an]ts to his knowledge did beare any evell will or malice towards the now Compl[ainan]t.

2 To the 2 Int[errogatorie] this defend[an]t sayth that nether he nor any of the defend[an]ts to his knowledge dyd Consult or advise to harme the now Compl[ainan]t ether in estate body or goods as is supposed in this Int[errogatorie].

3 To the 3 Int[errogatorie] this defend[an]t sayth that he never dyd Conclude

or agre[e] nether any of the defend[an]ts to his knowledge did Conclude or agree to watch the Compl[ainan]t when he should ryde abroad into the Cuntry And more to this Int[errogatorie] he Cannot depose.

8 To the 8 Int[errogatorie] this defend[an]t sayth that nether himself nor any other of the defend[an]ts to his knowledge dyd Consult or agree to reporte that the said Walters had byn robbed Or that the Compl[ainan]t vnder Cullor to doe the kings Ma[jes]ties service dyd ryde abroad to take purses or any words to that effect as is supposed by the Compl[ainan]t in this Interr[ogatorie] To all the rest of the Int[errogatorie]s this defend[an]t sayth that he Can say nothing therevnto.

[signed with a mark]

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[fi86 r.]Exam[inatio] Capt[a] 12[º] [die] Dec[embris] an[no] 6[º] [Regni] Ja[cobi] reg[is] Ang[lie] Fr[ancie] et Hib[er]nie et Sc[otie] 42[º] sup[er] Interr[ogatoria] Ad sect[am] Tho[me] Stone quer[entis] Ministr[ata]

Richard Keyes of London poulter sworne &c.

1 To the 1 Int[errogatoria][errogatorie] this defend[an]t sayth that he never dyd nor any of the defend[an]ts to his knowledge dyd beare any evill will malice or hatred To the now Compl[ainan]t.

2 To the 2 Int[errogatorie] this defend[an]t sayth that to his knowledge none of the defend[an]ts nor himself dyd ever Consult or Advise to harme the Compl[ainan]t ether in estat[e] body or goods as is supposed in this Int[errogatorie].

3 To the 3 Int[errogatorie] this defend[an]t sayth that nether he nor any of the defend[an]ts to his knowledge dyd at any tyme Conclude or agree to watche the Compl[ainan]t when he should ryde abroad into the Cuntry as in this Int[errogatorie] is likewise supposed.

8 To the 8 Int[errogatorie] this defend[an]t sayth that he never dyd nor any of the defend[an]ts to his knowledge ever dyd Consult or agree to reporte that the said Walters had byn robbed or that the Compl[ainan]t under Cullor to doe the kings Ma[jes]ties service dyd use to ryde abroad to take to purses or words to that effect To all the rest of the Int[errogatories] this defend[an]t sayth he cannot depose.

Richard Keyes

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[f188 r.] Exam[inatio] Capt[a] 12[^o] die dec[embris] an[no] [Regni] 6[^o] Ja[-cobi] reg[is] Ang[lie] Fr[ancie] et Hib[er]nie et Sc[otie] 42[^o] sup[er] Inter-rogatoria] Ad sect[am] Thome Stone quer[entis] ministr[ata]

Thomas Moyse of London poulter sworn and examyned

1 To the 1 Int[errogatorie] this defend[an]t sayth that nether he nor any of the defend[an]ts to his knowledge dyd beare any evell will malice or hatred towards the now Compl[ainan]t as is supposed in this Int[errogatorie].

2 To the 2 Int[errogatorie] this defend[an]t sayth that to his knowledge none of the defend[an]ts nor himself did Consult or advise to harme the now Compl[ainan]t in estate goods or body, as is likewise in this Int[errogatorie] supposed.

3 To the 3 Int[errogatorie] this defend[an]t sayth for himself and for the rest of the defend[an]ts that he nether he nor they or any of them to his knowledge dyd at any tyme watche the now Compl[ainan]t when he should ryde forth into the Cuntry.

8 To the 8 Int[errogatorie] this defend[an]t sayth that he dyd neu[er] consult or agree to make reporte nor any of the defend[an]ts to his knowledge dyd Consult or agree to make any suche reporte that the said Walters had byn robbed or that the Compl[ainan]t vnder p[re]tence of doing the kings Ma[jes]ties service dyd ryde abroade to take purses or words to that effect.

9 10 To the 9 10 Int[errogatories] this defend[an]t sayth he cannot depose.

11 12 To the 11 & 12th Int[errogatories] this defend[an]t sayth likewise that he cannot depose.

13 To the 13 Int[errogatorie] this defend[an]t sayth that he hathe hard that the Compl[ainan]t dyd Comence & p[ro]secure a sute or action agaynst the defend[an]t Walters in the guild hall in London vppon words spoken by the said Walters against the defend[an]t but sayth he dyd not nor doth not knowe that any of the defend[an]t dyd disburse any money in the said sute or otherwise maynteyne or Countenance the same nether dyd he or any of the defend[an]ts to his knowledege [f189 r.] p[ro]cure or sue forth a wrytte of privedge to remove the said Cause To the Courte of Co[m]mon pleas at Wesminster nether dyd he this def[endant] nor any other of the defend[an]t to his knowledge disburse any monye in p[ro]curing the same And more to this Int[errogatorie] he cannot depose.

14 15 16 To the 14 15 and 16 Int[errogatories] this defend[an]t sayth he can say nothing.

Thomas Moyse

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[f190 r.]Exam[inatio] Capt[a] 13[°] [die] dec[embris] an[no] [Regni] 6[°] Ja[cobi] reg[is] Ang[lie] Fr[ancie] & Hib[er]nie et Sc[otie] 42[°] sup[er] In-terr[ogatoria] Ad Sect[am] Tho[me] Stone quer[entis] ministr[ata]

Thomas Okeley of London waxe chaundler sworn &c.

1 To the 1 Int[errogatorie] this defend[an]t sayth that he never dyd nor any of the defend[an]ts to his knowledge ever dyd beare any evell will malice or hatred towards the now Compl[ainan]t Tho[mas] Stone.

2 To the 2 Int[errogatorie] this defend[an]t sayth that nether he nor any of the defend[an]ts to his knowledge dyd ever Consult or agree to harme the now Compl[ainan]t ether in his estate body or goods as is supposed in this Int[errogatorie].

3 To the 3 Int[errogatorie] this defend[an]t sayth that he dyd not nether any of the defend[an]ts to his knowledge at any tyme dyd Conclude or agree to watche the said Compl[ainan]t when he should ryde iTo the Cuntry as is likewise supposed in this Int[errogatorie].

8 To the 8 Int[errogatorie] this defend[an]t sayth that he did not nor any of the defend[an]ts to his knowledge dyd Consult or agree to make reporte that the defend[an]t Walters had byn robbed, or that the Compl[ainan]t vnder Cullor to doe the kings ma[jes]ties service dyd ryde abroad to take purses or any words to that effect.

9 10 11 12 To the 9 10 11 12 Int[errogatories] this defend[an]t sayth he can say nothing save only that he hath have the defend[an]t Walters affirme and say that the Compl[ainan]t Stone was one of the[se] that robbed him the said Walters And more To these Int[errogatories] he cannot depose.

13 To the 13 Int[errogatorie] this defend[an]t sayth that he hath hard that the Compl[ainan]t Stone dyd Co[m]mence & p[ro]secute a sute at the guild Hall in London against the said def[endant] Walters for words spoken by him against the said Compl[ainan]t, but this def[endant] sayth that he never dyd nor any of the defend[an]t to his knowledge at any tyme ever dyd disburse

any mony in the said sute or otherwise mainteyne or Countenance the s[ai]d defend[an]t Walters in the same nether dyd he nor any of the defend[an]ts to his knowledge [f191 v.] sue out or p[ro]cure a wrytt of priviledge to remove the said Cause or disburse any mony in the p[ro]curing of the same And more to this Int[errogatorie] he cannot depose.

14 15 16 To the 14 15 and 16 Int[errogatories] this defend[an]t sayth that he Cannot depose.

Thomas Okley

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[f192 r.] Exam[inatione] Capt[a] 13[^o] [die] dec[embris] an[no] [Regni] 6[^o] Ja[cobi] reg[is] Ang[lie] Fr[ancie] & Hib[er]nie et Sc[otie] 42[^o] sup[er] Interr[ogatoria] Ad sect[am] Tho[me] Stone quer[entis] ministr[ata]

Allen Baker of London poulter sworn &c.

1 To the 1 Int[errogatorie] this defend[an]t sayth that he neuer dyd nor any of the defend[an]ts to his knowledge ever dyd beare or owe any evell will malice or hatred towards the now Compl[ainan]t as is supposed.

2 To the 2 Int[errogatorie] this defend[an]t sayth that ne[i]ther he nor any of the defe[ndants] to his knowledge dyd ever Consult or agree to harme the said Compl[ainan]t ether in his estate bodye or goods as in this Int[errogatorie] is likewise supposed.

3 To the 3 Int[errogatorie] this defend[an]t sayth that he dyd never ne[i]ther doth knowe that any of the defend[an]ts ever dyd Conclude or agree to watch the now Compl[ainan]t when he should ryd abroad into the Cuntry as is supposed in this Int[errogatorie].

8 To the 8 Int[errogatorie] this defend[an]t sayth that he dyd not nor to his knowledge any of the defend[an]ts dyd Consult or agree to report that the defend[an]t Walters in this Int[errogatorie] named had byn robbed or that the Compl[ainan]t vnder Cullor to doe the kings Ma[jes]ties service dyd ryde abroad to take purses or any words to that effect.

9 10 To the 9 & 10 Int[errogatories] this defend[an]t sayth that he cannot depose.

11 To the 11 Interr[ogatorie] this defend[an]t sayth that nether he nor any of the def[endant]s to his knowledge dyd consult or agree to make any meanes

To the Kings Ma[jes]tie or any othe p[er]son for beg[g]ing the goods & chattels of the said Compl[ainan]t Stone nether dyd he nor any of the defend[an]ts to his knowledge p[ro]cure or assent that the said Walters at a sessions houlden in & for the Country of Essex should p[re]fer a bill of Indytement vnto the Graund Iury there & vppon his oathe give in Evydence To the said Iurye that the said Compl[ainan]t Stone had robbed the said defend[an]t Walters.

12 To the 12 Int[errogatorie] this defend[an]t sayth that he cannot deny but that the said Walters at the said Sessions holden in Essex about the tyme in this Int[errogatorie] menc[i]oned did depose & give in evidence vnto the said graund Iurye that the s[ai]d Compl[ainan]t Stone had robbed him but what the effect or substance of the oathe was w[hi]ch the said Walters then gaue vnto the said graund Iury he this defend[an]t doth not now well remembe[r] And more to this Int[errogatorie] he cannot depose.

[f193 v.] 13 To the 13 Int[errogatorie] this defend[an]t sayth that he hath hard that the said Compl[ainan]t Stone dyd Commence & p[ro]secute a sute or action against the said defend[an]t Walters in the guild hall London for words spoken by the said Walters of the said Compl[ainan]t but he sayth that nether he nor any of the defend[an]ts to his knowledge dyd disburse any monye in the said sute or otherwise maynteyne or Countenance the same, nether dyd he not the other defend[an]ts to his knowledge p[ro]cure or sue forth any such wrytt of p[ri]viledge to remove the said Cause as is in this Int[errogatorie] supposed nether dyd he nor any of the def[endants] to his knowledge disburse any monye in the p[ro]curing of the same as is likewise supposed in this Interr[ogatorie] To all the rest of the Int[errogatories] he this defend[an]t sayth that he Cannot depose.

[signed with a mark]

*
* *

[f194 r.] Inter[r]ogatories to be ministred for the Examynac[i]on of Henry Bate Nicholas Kefford Will[ia]m Burte Issabell his wiffe Edward Leake, Joanes Harlowe, Elizabeth his wiefe Iames Harlowe Iohn Woodbridge, Anthony Haks, Symon Ioye, Iohn Vowell, [Edward Hunter], Allen Baker, Richard Keyes, Thomas Moyse defend[an]ts at the sute of Thomas Stone Complaynant.

Imprimis doe you or any of the defend[an]ts to yo[u]r knowledge beare any evill will mallice or hatred towards the now Compl[ainan]t, yf yea expresse in

certain[ti]e thereof and for what cause and how longe you [or] any of the defend[an]ts to yo[u]r knowledge have so done.

It[e]m doe you or any of the defend[an]ts to your knowledge consulte or advise to harme the [document torn] estate goods or body, yf yea declate when where and in what manner and [document torn].

It[e]m did you or any of the defend[an]ts to yo[u]r knowledge at any tyme conclud[e] and [document torn] now Compl[ainan]t when he should Ride into the Countrey, yf yea expresse the tyme when and [document torn] thereof.

It[e]m did the defend[an]ts Anthony Hakes Symon Ioy Raphe Walter or any of them when or about the Tenth day of may now last past overtake the now Compl[ainan]t vpon the high way nere vnto Totehham yf yea, did they or any of them, outride the now Compl[ainan]t, And then after did they or any of them stay or suffer the Compl[ainan]t to ride before them, And then after the second tyme did they out ride the now Compl[ainan]t, and soe diu[er]se tymes did crosse out ride and stay for the now Complaynant, And did they or any of them in all that tyme speake any one words vnto the now Compl[ainan]t, Declare the certaintie thereof, and yo[u]r true into it at lardge.

It[e]m did you Ride a mayne gallop by the now compl[ainan]t at or neare the village of Enfield did you or any of you there alight or rayne vpp yo[u]r horsses, And did you there vpon Ru[n]ne at the now Compl[ainan], And did one of you, lay his Arme on the Compl[ainan]ts horses neck hold his horse brydle and bid him stand, yea or nea, And did you or any of you three call the Compl[ainan]t by his name Declare the truth hereof. And what weapons any of you the said Walters, Hakes, and Ioye then had, And whoe besides was then in yo[u]r company to assist you.

It[e]m did you the said Anthony Hakes, Symon Ioye, and Raphe Walter or any of you then or for any tyme before knowe the now Compl[ainan]t what trade and occupac[i]on hee was of and where he dwelt Declare the whole truth vpon yo[u]r oathe.

It[e]m did the gentlemen That then came to you afte[r] you or anu of you what moved you stay or assaulte the now Compl[ainan]t or to that effect, yf yea what answer did you mae therevnto did you not said that you hoped that there was noe offence done, and yf there were, it [document torn] mistaking, For that you had thought the now Compl[ainan]t had byn one of [docu-

ment torn] the said Walters, about three weeks then before or to that effect [document torn] lardge, And whether, when, by whome, the said Walters was Rob[b]ed and of [document torn] mich money was or were taken away from the said Walters.

It[e]m did you or any of the defend[an]ts to yo[u]r kwnoledge Consult or agree to reporte that the said Walters bad byn Robbed, And that the Compl[ainan]t vnder Cullor to doe the kings ma[jes]ties service did vse to ride abroade to take purses or did you reporte the same, or to that effect.

It[e]m having notice that the pl[ain]t[iff] did intend to take his remeidye by lawe against yow or some of the defend[an]ts did you or any of the defendants to yo[u]r knowledge assemble yo[u]r selves together, Consulte or agree that the said Walters should reporte that himselfe had byn Rob[bed] neere Vgley in the County of Essex and should afferme the now Compl[ainan]t to be one of them that had Rob[be]d him and should p[ro]cure a warrant from some of the Iustices of the Peace for the Cittie if London to apprehend the now Compl[ainan]t, And did you or any of the defend[an]ts p[ro]mise or agree to spend any money in p[ro]sequetion of the now Compl[ainan]t, yf yea expresse the[i]re names and how much that they did p[ro]mis or agree to spend and the whole truth vpon yo[u]r oathe.

10 It[e]m did you or any of the defend[an]ts to yo[u]r knowledge p[ro]cure any such warrant for the apprehention of the pl[ain]t[iff] by vertue thereof and to be bound to appear at the Assises hold in and for the said Cittie of London, and did you or any of the defend[ant]s to yo[u]r knowledge at the said Sessions held in and for the Cittie of London in June last past afferme that the said Walters had byn Rob[be]d in the said County of Essex, And thereby p[ro]cured the now Compl[ainan]t to be bound over to appeare at the next greate Sessions, then to be held in and for the said County of Essex Declare who of the defend[an]ts were about [document torn] busines in company of the said Walters there.

11 It[e]m did you or any of the defend[an]ts to yo[u]r knowledge Consult or agree to [document torn] the kings ma[jes]tie or any other p[er]son for begging the goods and chattels of the [document torn] you or any of the defend[an]ts to your knowledge p[ro]cure or assent that the said Walters at the said [document torn] in and for the said County of Essex should preferre a bill of Indictment vnto [document torn] there, and vpon his oath give in evidence [illegible] Iury there that the [document torn].

12 It[e]m did the said Walters at the greate Sessions held in July last in and for the said [document torn] Essex depose and give in evidence vnto the Graund Iury then and there sworne that the now Compl[ainan]t had rob[be]d him the said Walters expresse in certain[ti]e as neare as you remember the effect and substance of the said Walters oathe. And were [illegible] you acquainted before hand w[i]th what the said Walters intended then to depose and [illegible] you acquainted there w[i]thall.

13 It[e]m doe you knowe or have you credably heard that the Compl[ainan]t did conduce & p[ro]sequeute an acc[i]on of the Case against the said Walters in the Guyld hall at London for words by him spoken of the now Compl[ainan]t, And did you or any of the defend[an]ts to your knowledge disburse any money in the said sute or othewyse maynteyne or countteauce the same, And did you or any of the defend[an]ts to your knowledge p[ro]cure or sue forth a writt of priuledge to remove the said cause To the Courte of Com[m]on Pleas of Westminster And did you or any of the defend[an]ts disburse any money in [procuring the same] Declare the truth vpon yo[u]r oathe and what money [was] there by [you] or any of you dibursed in the behalfe of the said Walters in or touching the defence [of the said] [illegible] by the pl[ain]tiff comenced against the said Walters.

14 It[e]m was there not a p[ro]sedend[o] had from the said Courte of Com[m]on Pleas And did you or any of the defend[an]ts to your knowledge sue forth and p[ro]cure a Habeas Corpus from the Courte of kings Bench at westminster to Remove the said [action] from the said Guyld hall at London And was there not a Procedendo had therevpon, and did you after that againe [illegible] of the [document torn] defend[an]ts to your knowledge [hadd] a second Habeas Corpus, And did you or any of the defend[an]ts [document torn] to yo[u]r knowlege laye out [or] disburse any money about the p[ro]cureing of the said writt [of Habeas] Corpus or either of them Declare in certain[ti]e their names that did disburse the said [document torn] how much then did disburse and the truth thereof at large.

15 It[e]m did not the [nowe] pl[ain]tiff recou[er] in the said acc[i]on of the Case against [Stone] had Iudg[e]me[n]t accordingly, And did you or any of the defend[an]ts to your knowledge [document torn] the said Walters to absence him selfe for a tyme Yf yea wherefore [document torn] you advise or p[ro]cure him soe to doe was it not to p[re]vent the defend[an]t of yo[u]r said [document torn] and Confeder [illegible] expresse the whole truth vpon yo[u]

r oath and what is now become of [document torn] said Walters and what was yo[u]r then and last conference with him.

It[e]m did you or any of the defend[an]ts to yo[u]r knowledge p[ro]cure any-[e] writt of error for Reu[er]sall of the said Iudgment yf yea was it not in the s[er]vice of the said Walter and whether was it not w[i]thout his privitie p[ro]curement [or] consent. And whether [did you] or any of the defend[an]ts to your knowledge disburse or lay out any money for about the p[ro]sequing of the said writt of [error yf] yea, how much money did you or any other the defend[an]ts disburse or lay out for [document torn] [illegible] the said processe [illegible] disburse the said money and [illegible] [illegible].

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